

Town and Country Planning Act 1990
Neighbourhood Planning (General) Regulations 2012

BARNHAM AND EASTERGATE NEIGHBOURHOOD PLAN

INDEPENDENT EXAMINATION

**A report to Arun District Council
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7 May 2014

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1. Introduction

Neighbourhood Planning

- 1.1. Neighbourhood planning is the process introduced by Parliament in the Localism Act 2011 to enable those living and working in a community to take a more involved role in the process of deciding its future. They are able to establish general planning policies for the development and use of land in the neighbourhood; they are able to say, for example, where new homes and offices should be built, and what they should look like. The neighbourhood plan will set a vision for the future. It can be detailed or general, depending on what local people want.¹
- 1.2. The 2011 Act introduced the necessary amendments to the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 to make the new process possible.² These came fully into force on 6 April 2012, along with the Neighbourhood Planning (General) Regulations 2012, which provided for the detailed procedures.
- 1.3. The first step towards producing a neighbourhood plan is for a parish council or other qualifying body to define a “neighbourhood area” for which it considers that a plan should be produced, and to prepare a draft plan for that area - with the assistance of the local planning authority where appropriate. The draft plan must meet what are referred to in the legislation as “the Basic Conditions” - that is, in summary, it should be generally in line with national and other local planning policies; and it must conform to other laws.³
- 1.4. The draft plan is made available for inspection within the area in question, and anyone can make representations.
- 1.5. Once a neighbourhood plan has been prepared, and everyone has had a chance to comment on it, an independent examiner is appointed by the planning authority, with the consent of the qualifying body that produced the draft neighbourhood plan. The examiner must be someone who is independent of the qualifying body and the authority, has appropriate qualifications and experience, and has no interest in any land affected by the plan.⁴

¹ <https://www.gov.uk/neighbourhood-planning>

² Town and Country Planning Act [“TCPA”] 1990, ss 61E to 61P, Sched 4B (neighbourhood development orders); Planning and Compulsory Purchase Act [“PCPA”] 2004, ss 38A to 38C (application to neighbourhood plans).

³ TCPA 1990, Sched 4B, para 8, applied by PCPA 2004, s 38A(3); for more details, see below.

⁴ TCPA 1990, Sched 4B, para 7(6), applied by PCPA 2004, s 38A(3).

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- 1.6. The role of the independent examiner is to check that the plan complies with the various statutory requirements or, if it does not comply, that it can be changed so that it does. The examiner produces a report, which contains one of three possible recommendations:
- “(a) that the draft plan is submitted to a referendum;
 - (b) that modifications specified in the report are made to the draft plan, and that the draft plan as modified is submitted to a referendum; or
 - (c) that the proposal for a plan is refused.”⁵
- 1.7. The recommended modifications can only be those that the examiner feels are necessary to ensure that the draft plan complies with the basic conditions and the other relevant statutory requirements or are needed for the purpose of correcting errors. The planning authority then decides whether it is willing to make any or all of those changes; if they are major, they may have to be the subject of a further round of consultation.
- 1.8. There is then a referendum on whether the draft plan should be “made”, subject to any changes recommended by the examiner and accepted by the planning authority. If more than half of those voting vote in favour of the plan, the planning authority must then make the plan.
- 1.9. Once it comes into force, the neighbourhood plan is part of the development plan for the area to which it relates, alongside the “saved” policies of the relevant local plan, any plans for minerals and waste disposal, and any saved policies of the relevant regional strategy. From then on, therefore, it is an integral part of the policy framework that guides the planning authority and the inspectorate in making all planning decisions in the area.

The proposed Barnham and Eastergate Neighbourhood Plan

- 1.10. Arun District Council (“the District Council”) is the local planning authority for all purposes under the 1990 and 2004 Acts for the area including the parishes of Barnham and Eastergate.
- 1.11. The parish councils of Barnham and Eastergate (“the Parish Councils”) are parish councils within the terms of the Local Government Act 1972. Each is therefore a qualifying body for the purposes of section 38A(12) of the 2004 Act. A parish council is entitled to submit to the local planning authority a proposal for the making of a neighbourhood plan for
- the whole or part of its area; and
 - the whole or part of a neighbouring parish, but only with the consent of the council of that parish.⁶

As far as I am aware, this is the first neighbourhood plan to be proposed by two parish councils.

⁵ TCPA 1990, Sched 4B, para 10(2), applied by PCPA 2004, s 38A(3).

⁶ TCPA 1990, s 61F(1), (2), applied by PCPA 2004, s 38C(2)(a).

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- 1.12. The application to the District Council for the designation of Barnham and Eastergate as a neighbourhood area recorded as follows:

“Two-thirds of Barnham Village lies within Eastergate Parish, the remainder being in Barnham Parish. Barnham village is however a single community, and it makes no sense to divide it into separate neighbourhoods for planning purposes.

It was therefore decided, by unanimous votes of both Parish Councils at their respective public meetings early in 2012, to develop one neighbourhood plan covering the whole of both parishes, including the small village of Eastergate and the much larger village of Barnham.

This joint approach is widely supported by residents of both parishes.”

- 1.13. This makes it plain that each of the two Parish Councils is consenting to the involvement of the other; I therefore consider that the Barnham and Eastergate neighbourhood area has been properly designated by the District Council. And I agree with the comment above that it would make no sense to divide the area into two for planning purposes.
- 1.14. However, I am aware that it could be argued that the statutory scheme requires that each neighbourhood plan be proposed by only one qualifying body, and that there is no provision for a plan to be produced by two bodies. For the avoidance of any possible challenge on this ground, I **RECOMMEND** that one of the two Parish Councils (it matters not which) be appointed the sole qualifying body for the whole of the neighbourhood area, and that the other one consent to that body putting forward a plan for its area.
- 1.15. The details of the process by which the proposed neighbourhood plan came into existence, and the dates on which each stage was reached, are set out in the *Consultation Statement*, produced in December 2013. In particular, a draft of the Proposed Plan was the subject of an extensive consultation exercise in 2012-2013.

My appointment

- 1.16. I have been appointed by the District Council to conduct an independent examination of the proposed Neighbourhood Plan (“the Plan”). I am independent of the Parish Councils and the District Council.
- 1.17. I am a chartered town planner (FRTPI) and chartered surveyor (FRICS), a member of the Institute of Historic Buildings Conservation (IHBC), and a barrister in private practice. I have worked as a planning officer in a London borough council for nine years, and I have since then practised at the planning Bar for some 24 years, and written and lectured on planning matters generally. I have no interest in any land affected by the Proposed Plan.
- 1.18. I have been supplied with the following basic documents:
- the *Barnham and Eastergate Neighbourhood Plan 2014-29* (“the Proposed Plan”), undated but apparently produced in December 2013;
 - the *Consultation Statement*, published in December 2013; and

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- the *Basic Conditions Statement*, published in December 2013.
- 1.19. I have also been supplied with (or referred to) a number of other relevant documents, including the following:
- the *Arun District Local Plan 2003*, produced by the District Council (“ADLP”);
 - the list of policies in the Local Plan saved (still in force) after 27 September 2007, following a direction by the Secretary of State under paragraph 1(3) of Schedule 8 to the 2004 Act;⁷
 - the emerging *Arun Consultation Draft Local Plan 2013-2028* (“the emerging Local Plan”);
 - the sustainability appraisal of the emerging Local Plan;
 - the *Intended Full Sustainability Appraisal* produced in summer 2013 for the District Council in the course of the production of
 - the further Evidence Base (partly online⁸);
 - the representations received by the District Council in response to the consultant carried out under regulation 16;
- 1.20. I have also had regard to the legislation referred to above, and to other relevant legislation and case law, and to policy guidance from central Government (considered in more detail below).

Procedure

- 1.21. The 2004 Act provides that the general rule is that the examination of the issues by the examiner is to take the form of a consideration of written representations; but there must be an oral hearing if the examiner considers that it is necessary to consider oral representations to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case.⁹
- 1.22. In this instance I did not consider that an oral hearing would be necessary.
- 1.23. I have visited Barnham and Eastergate, and explored carefully the various sites and locations referred to in the Proposed Plan.

Recommended modifications

- 1.24. I have highlighted in **bold type** my recommendations, including as to modifications to the Proposed Plan.

⁷ <http://www.arun.gov.uk/main.cfm?type=SCHEDULEOFSAVEDPOL>

⁸ <http://eastergate.arun.gov.uk/main.cfm?type=KEYDOCUMENTS>

⁹ PCPA 2004, Sched 4B, para 9(1).

2. The basic conditions

The legal requirement

- 2.1. In my examination of the Proposed Plan, I am required by paragraph 8(1)(a) of Schedule 4B to the 1990 Act to consider whether it meets “the basic conditions.”¹⁰
- 2.2. In the remainder of this Chapter, I outline what are the basic conditions; and in the following Chapters, I consider whether the Proposed Plan meets them.
- 2.3. The Regulations provide that the submission of a proposed neighbourhood plan by a qualifying body to a planning authority must be accompanied by a statement explaining how the plan meets the basic conditions, as well as other statutory requirements.¹¹ In the case of the Proposed Plan for Barnham and Eastergate, a document has been produced to accompany it, entitled *Basic Conditions Statement*, which provides a helpful summary of the measures that have been taken in this case to ensure that the Plan does meet the conditions.

The basic conditions

- 2.4. Paragraph 8(2) of Schedule 4B provides that a neighbourhood development plan meets the basic conditions if:
 - “(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make [the plan],
 - (d) the making of [the plan] contributes to the achievement of sustainable development,
 - (e) the making of [the plan] is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
 - (f) the making of [the plan] does not breach, and is otherwise compatible with, EU obligations, and
 - (g) prescribed conditions are met in relation to [the plan] and prescribed matters have been complied with in connection with the proposal for [the plan].”¹²
- 2.5. Basic conditions (b) and (c), relating to the built heritage, apply to the examination of proposed neighbourhood development orders, but not to that of neighbourhood plans.

¹⁰ TCPA 1990, Sched 4B, para 8(1), applied by PCPA 2004, ss 38A(3), 38C(5)(b), (c). Sub-para 8(1)(c) does not apply to neighbourhood development plans.

¹¹ Neighbourhood Planning (General) Regulations [“NP(G)R 2012”], reg 15(1)(d); see below.

¹² TCPA 1990, Sched 4B, para 8(2), applied by PCPA 2004, ss 38A(3), 38C(5)(d).

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- 2.6. Only one further basic condition has been prescribed under paragraph 8(2) (g), as follows:

“The making of the neighbourhood development plan is not likely to have a significant effect on a European site ... or a European offshore marine site ... (either alone or in combination with other plans or projects).”¹³

- 2.7. It may be noted that a proposed plan must meet all of the basic conditions specified in paragraph 8(2), if it is to be submitted to a referendum, not just some of them.

National policies and advice: the NPPF

- 2.8. In carrying out the examination of the Proposed Plan, and deciding whether to recommend that it should be submitted to a referendum, I am required to have regard to national policies and advice contained in guidance issued by the Secretary of State (basic condition (a)).

- 2.9. The most significant national policies relevant to planning matters are set out in the *National Planning Policy Framework* (“the NPPF”). This was issued in March 2012, and replaced almost all of the Planning Policy Guidance notes and Planning Policy Statements (PPGs and PPSs) that were extant at that time.

- 2.10. The Government’s understanding of plan-making is summarised at paragraphs 15 and 16, as follows:

“15. ... All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.

16. The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:

- develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development
- plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”

- 2.11. The core principles that should underpin all planning are then summarised at paragraph 17, and elaborated in relation to specific topics in the remainder of the NPPF. That paragraph starts as follows:

17. Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency; ...”

¹³ NP(G)R 2012, Sched 2, para 1.

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2.12. The principal policies of the NPPF specifically relating to neighbourhood planning are as follows:

“183. Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:

- set planning policies through neighbourhood plans to determine decisions on planning applications; and
- grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.

184. Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

185. Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict. ...”

- 2.13. Other policies directly relating to the making of neighbourhood plans are in paragraphs 28, 56-58, 69-70, 76-77, 97, 109-111, and 117.
- 2.14. More general policies relating to “plan making” are found throughout the NPPF, but they generally refer to the making of local plans. For example, paragraphs 47 and 158-159 contain important policies regarding the need to ensure an adequate supply of housing; but these specifically refer to action by local planning authorities. Nevertheless, since neighbourhood plans are to be in general conformity with strategic policies in local plans, those policies in the NPPF relating to local plans will still be indirectly relevant.
- 2.15. More generally, the NPPF sets out a whole suite of policies relating to a wide range of issues, including in particular transport, housing, design, climate change, the natural environment, and the historic environment. I have had regard to these where appropriate in carrying out my examination.

Planning Practice Guidance

- 2.16. More detailed guidance and advice, expanding on the general policies in the NPPF, has been available since March 2014 on the Planning Portal website,

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as *Planning Practice Guidance* ("PPG").¹⁴ This guidance relates to a whole range of planning issues.

2.17. In particular, the PPG includes specific guidance related to neighbourhood plans; and that guidance suggests that the main source of Government policy is simply the NPPF and in particular paragraphs 16 and 184, noted above.¹⁵ However, the PPG itself would seem to constitute national "advice", whether or not it is "policy"; and I have had regard to it accordingly.

2.18. In particular, the PPG contains the following guidance:

"How should the policies in a neighbourhood plan be drafted?

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared."¹⁶

2.19. A policy that is not "clear and unambiguous" is thus not in accordance with the basic conditions. The same would presumably apply if the purported justification for a policy was not clear and unambiguous, although that is not spelt out in the PPG.

2.20. The requirement that a policy should be distinct, reflecting local circumstances, is less straightforward. Many policies in this Proposed Plan, and in many proposed neighbourhood plans, are to a greater or lesser extent generic policies that could apply to many if not all locations. But the fact that a particular community has chosen to include a particular generalised policy in its plan reflects its awareness that the issue in question is of special relevance in its circumstances. The inclusion of such general policies thus does not of itself mean that those policies, or the plan as a whole, is not in accordance with the basic conditions.

Other national policies and advice

2.21. The reference in the first basic condition to national policies and advice is not limited to the guidance in the NPPF and the PPG. In particular, there were still in existence at the time when the Proposed Plan was prepared a plethora of Circulars, practice guidance notes and other such documents, notwithstanding the cull that was carried out when the NPPF was produced in 2012. However, most of those documents, and in particular the 2007 practice guidance on *Strategic Housing Market Assessments* and *Strategic Housing Land Availability Assessments*, were cancelled in March 2014.

¹⁴ <http://planningguidance.planningportal.gov.uk/blog/guidance/>

¹⁵ PPG, ref ID: 41-069-20140306, ID: 41-070-20140306.

¹⁶ PPG, ref ID: 41-041-20140306.

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- 2.22. None of those who submitted written representations have drawn attention to any other national policies and advice to be taken into account in my examination of the Proposed Plan.
- 2.23. Subject to the above, I have therefore assumed that the relevant national policies and advice are those that are now contained in the NPPF and the PPG.

Sustainable development

- 2.24. In carrying out the examination of the Proposed Plan, I am required to consider whether the making of it would contribute to the achievement of sustainable development (basic condition (d)).
- 2.25. Paragraph 6 of the NPPF states that:
- “The policies in paragraphs 18 to 219, taken as a whole [that is, virtually the whole of the NPPF], constitute the Government’s view of what sustainable development in England means in practice for the planning system.”
- 2.26. Slightly more helpfully, the following paragraph summarises the concept of sustainable development and the role of the planning system as follows:
- “7. There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:
- *an economic role* - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
 - *a social role* - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
 - *an environmental role* - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.
- 2.27. The NPPF then explains that there is a presumption in favour of sustainable development:

“14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

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- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.”
- 2.28. This is applied specifically to neighbourhood plans in paragraphs 15 and 16, quoted above.
- 2.29. None of those who submitted written representations have referred to any other definition of sustainable development, or any other documents relating to it, that I should take into account in my examination of the Proposed Plan.

The development plan

- 2.30. In carrying out the examination of the Proposed Plan, I am required to consider whether it is in general conformity with the strategic policies contained in the development plan for the area (basic condition (e)).
- 2.31. In this case, the development plan for the area including Barnham and Eastergate consists principally of the *Arun Local Plan* (“the Local Plan”), produced in 2003 by the District Council for the whole of its area (including Bognor Regis, Littlehampton and Arundel) outside the South Downs National Park. Following its adoption, it was amended as a result of a High Court judgment, but that amendment did not affect Barnham and Eastergate.
- 2.32. In principle, that plan ceased to be effective on 27 September 2007, by virtue of paragraph 1(2)(a) of Schedule 8 to the 2004 Act; but the Secretary of State issued a direction, under paragraph 1(3) of that Schedule, listing those policies of the Local Plan that would be “saved” and could therefore still be relied on after that date. I have not seen the actual direction, but its effect is summarised in a schedule available on the District Council’s web-site.¹⁷ This shows that around three-quarters of the policies in the Local Plan have been saved. These provide, as would be expected, a complete suite of policies to deal with a wide range of issues, all of which were saved and are still in force.
- 2.33. The development plan also includes the saved policies of the separate local plans produced by West Sussex County Council dealing with minerals (2003) and waste disposal (April 2014). However, the Proposed Plan contains no policies relating to those matters, and no policies relating to other matters that are in conflict with any strategic policies in those plans.
- 2.34. The West Sussex Structure Plan 2001-2016, produced by the County Council in 2005, no longer has any formal status.
- 2.35. As far as I am aware, there are no saved policies from the relevant regional spatial strategy (RSS).

¹⁷ <http://www.arun.gov.uk/main.cfm?type=SCHEDULEOFSAVEDPOL>

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- 2.36. I have therefore confined my examination in relation to basis condition (e) to considering the general conformity with the saved strategic policies in the Local Plan.
- 2.37. There has been no objection (either from landowners, local people or anyone else) that there has been a failure by those drafting the Proposed Plan to ensure that it is in general conformity with the strategic policies in the adopted Local Plan.

The emerging Local Plan

- 2.38. It would, obviously, be easier to produce a neighbourhood plan if there was available a local plan adopted in the last year or so containing up-to-date strategic policies on all topics and, in particular, as to the amount of housing and employment land required. However, there is no rule, either in the relevant statutory provisions or in central Government guidance, stating that a neighbourhood plan can only be prepared within a specific period after the adoption of a local plan.
- 2.39. This is no more than common sense, as from the moment a local plan is adopted it will become gradually more out of date, and arguably the policies within it less and less directly applicable. But the development plan will still govern planning decisions; and any neighbourhood plan will still have to be "in general conformity with" its strategic policies. And neighbourhood plans, where they exist, will provide the building blocks to help with the preparation of the next local plan, just as much as the local plan will form the basis of the next generation of neighbourhood plans.
- 2.40. In other words, following the adoption of the local plan, there will be a succession of neighbourhood plans made for the various areas within the local plan area; and in due course a new local plan will be produced and the whole cycle will start all over again. Every neighbourhood plan is thus produced after the previous local plan (which will still be in force) and before the next one; the question is therefore not whether a neighbourhood plan is produced "before" or "after" a local plan, but simply how long after the previous plan. Clearly, the longer the interval since the adoption of the local plan, the more caution will be required in applying the strategic policies within it.
- 2.41. That is presumably why the requirement that a neighbourhood plan should be in general conformity with the local plan is not the only basic condition, and has to be set alongside the equally important requirements that the neighbourhood plan should be in line with Government policy and advice - which itself will be gradually less and less up-to-date - and that it should help to achieve sustainable development.
- 2.42. There is thus no explicit requirement that a neighbourhood plan should be in general conformity with the strategic policies within an emerging local plan. However, those preparing the next local plan are required to ensure that it contributes towards the achievement of sustainable development; and in doing that they must have regard to national policies and advice

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contained in guidance issued by the Secretary of State.¹⁸ It follows that the need to ensure that the neighbourhood plan also contributes towards that goal and has regard to national policies and advice means that a neighbourhood plan should also be in harmony with an emerging local plan.

- 2.43. On the other hand, a local plan that has not yet been tested for soundness at an inquiry should not be given too much weight.

- 2.44. More generally, the NPPF notes that the preparation of a local plan is to take into account any existing neighbourhood plans:

“155. Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. A wide section of the community should be proactively engaged, so that Local Plans, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area, including those contained in any neighbourhood plans that have been made.”

- 2.45. Further, paragraph 185 notes that:

“... Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.”

- 2.46. This seems to make it plain that a local plan may post-date a neighbourhood plan; and also, not surprisingly, that it must “reflect” the priorities contained in any relevant neighbourhood plan, and not repeat the non-strategic policies contained within it. That does not mean that the policies in a neighbourhood plan will necessarily determine what goes in to the next local plan - otherwise nothing would ever change - however, the more recent the neighbourhood plan, the more likely it will be that the local plan will closely reflect it. From which it follows that where a neighbourhood plan is being prepared at the same time as an emerging local plan, it makes sense for the two to be in harmony. But that is not, at least explicitly, one of the basic conditions.

- 2.47. In this case, the emerging local plan is the *Arun District Council Local Plan*. The status of this Plan is summarised by the District Council on its website as follows:

“This is the Publication version of the Local Plan as agreed by full Council on February 11th 2014. It does not include the housing allocations, Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation. These will be added when agreed by full Council.

In terms of the Development Plan process these policies within the Local Plan are at the Regulation 19 stage of the Town and Country Planning (Local Planning) (England) Regulation 2012. The policies in the plan will be subject to public consultation on behalf of the Government when the remaining policies have also been agreed, this will depend on when Full Council agrees the remaining elements of the plan; including the residual housing allocations and related infrastructure.

Note - The Publication Local Plan (excluding the aforementioned sections) is now considered a material consideration by Arun in assessing planning applications.”¹⁹

¹⁸ PCPA 2004, s 39(1)(b), (2).

¹⁹ <http://www.arun.gov.uk/main.cfm?type=LOCALPLANPUBLICATION>

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- 2.48. Further parts of the emerging Local Plan, relating to the areas not covered by the version approved in February 2014, are also available on the District Council's website; and at least some of those were approved on 30 April 2014, whilst my report was in the course of preparation.²⁰ Clearly they have not yet been formally adopted, and can therefore only be given limited weight. However, I have had regard to them, particularly in relation to housing allocations (see paragraphs 13.7 to 13.18).

EU obligations

- 2.49. In carrying out the examination of the Proposed Plan, I am required to consider specifically whether the making of Proposed Plan is likely to have a significant effect on
- a European site (as defined in the Conservation of Habitats and Species Regulations 2010), or
 - a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007),
- either alone or in combination with other plans or projects (additional basic condition (g)) (see paragraph 2.6 above).²¹
- 2.50. More generally, I am required to consider whether the making of the Proposed Plan is in general conformity with "EU obligations" (basic condition (f)).
- 2.51. The principal relevant EU obligation is under the EC directive on the assessment of the effects of certain plans and programmes on the environment (strategic environmental assessment, or SEA) (Directive 2001/42/EC). That requires, where plans and programmes are likely to have significant effects on the environment, that an environmental assessment be carried out at the time they are prepared and before they are adopted.
- 2.52. The applicability of that obligation was considered by the European Court of Justice in Case C-567/10 *Inter-Environnement Bruxelles ASBL v. Région de Bruxelles-Capitale*. The Court held that
- "27. The European Commission considers that, where an authority is subject to a legal obligation to prepare or adopt a plan or programme, the test of being 'required' within the meaning of Article 2(a) of Directive 2001/42 is met. ...
28. ... an interpretation which would result in excluding from the scope of Directive 2001/42 all plans and programmes, inter alia those concerning the development of land, whose adoption is, in the various national legal systems, regulated by rules of law, solely because their adoption is not compulsory in all circumstances, cannot be upheld.
- ...

²⁰ <http://www.arun.gov.uk/main.cfm?type=SUMMER2013#LP>

²¹ NP(G)R 2012, regulation 32; Schedule 2, paragraph 1.

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31. It follows that [such] plans and programmes ... must be regarded as 'required' within the meaning, and for the application, of Directive 2001/42 and, accordingly, be subject to an assessment of their environmental effects in the circumstances which it lays down."²²

- 2.53. In other words, merely because the preparation of a plan is optional, rather than compulsory, that does not avoid the need for an SEA to be prepared. That confirms that an SEA is required as part of the process of preparing a neighbourhood plan, where such a plan is likely to have significant effects on the environment.
- 2.54. I do not consider that any of the policies in this Plan are likely to have significant effects on the environment, such that an SEA needs to be prepared.
- 2.55. The second EU obligation is that:
- "any plan or project not directly connected with or necessary to the management of [a European site] but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's nature conservation objectives."²³

This echoes the more specific requirement of basic condition (g), referred to above.

- 2.56. I am not aware that any of the policies in this Plan are likely to have a significant effect on any European site.
- 2.57. None of those who submitted written representations have drawn attention to any other relevant EU obligation that I should take into account in my examination of the Proposed Plan. In particular, other potentially relevant EU obligations might arise under the Waste Framework Directive, the Air Quality Directive, or the Water Framework Directive. However, none of those would seem to be relevant in this case.

²² [2012] 2 CMLR 30, at paragraphs 27, 28, 31.

²³ Habitats Directive 92/43/EEC, article 6(3).

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3. Other statutory requirements

Introduction

- 3.1. There are number of matters that I am required to consider, in addition to the basic conditions:
- whether the Proposed Plan complies with the provision made by or under sections 38A and 38B of the 2004 Act;
 - whether the area for any referendum should extend beyond the neighbourhood area to which the Proposed Plan relates; and
 - such other matters as may be prescribed.²⁴
- 3.2. As to the matters in the first of these categories, there are a number of provisions for the making of neighbourhood plans:
- in sections 38A and 38B of the 2004 Act;
 - in Schedule 4B to the 1990 Act (introduced by section 38A(3) of the 2004 Act); and
 - in the 2012 Regulations (made under sections 38A(7) and 38B(4)).
- I consider whether the Proposed Plan complies with the requirements of these provisions in the remainder of this Chapter.
- 3.3. At the end of the Chapter I consider briefly the question of the area for a referendum.
- 3.4. As to the third category of matters mentioned in paragraph 3.1, none have yet been prescribed.
- 3.5. The Regulations provide that the submission of a proposed neighbourhood plan by a qualifying body to a planning authority must be accompanied by a statement explaining how the plan meets the above requirements.²⁵ Indeed, the submission of such a document is itself one of those requirements. In the case of the Proposed Plan at Barnham and Eastergate, the document has been produced to accompany it, entitled *Basic Conditions Statement*, does not refer to compliance with all of the statutory requirements referred to above, but merely with the basic conditions.

Policies in the Proposed Plan must relate to the development and use of land

- 3.6. A neighbourhood development plan is to be a plan that sets out policies for the development and use of land in the whole or part of the area in

²⁴ TCPA 1990, Schedule 4B, paragraph 8(1), applied by PCPA 2004, sections 38A(3), 38C(5)(b), (c).

²⁵ NR(G)R 2012, regulation 15(1)(d).

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question.²⁶ This is a fundamental provision, as a plan that contains only other types of policies may be a worthwhile and commendable document, but it is not a “neighbourhood development plan” within the terms of the relevant legislation.

- 3.7. In the present case, I have noted that there are some provisions in the Proposed Plan that do not relate to the development and use of land; however, on reflection, these are all within the general supporting text. I have made appropriate recommendations as to their omission.
- 3.8. I am satisfied that, provided those recommendations are followed, all of the policies in the Proposed Plan as modified do relate to the development and use of land.

The contents of the Proposed Plan must comply with other statutory requirements

- 3.9. There are various statutory requirements that must be complied with before a proposed neighbourhood plan can go forward to a referendum. Some of these relate to the process that should have taken place in connection with its preparation, before, during and after the examination. But some relate to the contents of the plan.
- 3.10. First, a neighbourhood development plan must specify the period for which it is to have effect.²⁷ In this case, paragraph 1.1.2 of the Proposed Plan (the amended version of existing paragraph 2.2 on page 4), following amendment in accordance with my recommendation (at paragraph 5.6 below) will clearly state that the Plan will have effect for the period 2014 to 2029. It will therefore comply with this requirement.
- 3.11. Secondly, a neighbourhood development plan may not include provisions relating to “excluded development” - principally minerals, waste disposal and nationally significant infrastructure projects.²⁸ The Proposed Plan does not include any such provisions. It therefore complies with this requirement.
- 3.12. Thirdly, a neighbourhood development plan may not relate to more than one neighbourhood area; and only one such plan may be made for each area.²⁹ The Proposed Plan relates only to the parishes of Barnham and Eastergate; and is the only neighbourhood development plan relating to that area. It therefore complies with these requirements.
- 3.13. Fourthly, in the event of a conflict between a policy and other material in a neighbourhood development plan, the policy must prevail.³⁰ At paragraph

²⁶ PCPA 2004, section 38A(2).

²⁷ PCPA 2004, section 38B(1)(a).

²⁸ PCPA 2004, section 38B(1)(b), (6).

²⁹ PCPA 2004, section 38B(1)(c), (2)

³⁰ PCPA 2004, section 38B(1)(d).

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5.9 below, I propose a new paragraph to meet this point, to be inserted after paragraph 1.2.3 (existing paragraph 2.7 on page 4 of the Proposed Plan).

The Proposed Plan may not be submitted to a referendum if it breaches EU obligations or the Human Rights Convention

- 3.14. The planning authority is not obliged to submit a plan to a referendum if it breaches any EU obligation or any rights under the Human Rights Convention.³¹
- 3.15. Compliance with EU obligations has been considered already, in the previous Chapter (see paragraphs 2.49 to 2.55). I do not consider that the Proposed Plan is in breach of any such obligations.
- 3.16. None of those who submitted written representations have drawn attention to any particular right under the Human Rights Convention that I should take into account in my examination of the Proposed Plan. And I do not consider that the Proposed Plan is in breach of any Convention Rights.
- 3.17. I therefore see no reason under either of these headings why the District Council should not submit the Proposed Plan, subject to the recommended modifications, to a referendum.

The making of the Proposed Plan must comply with the statutory requirements

- 3.18. The production of a plan and its independent examination (as opposed to its contents) must be in accordance with the provisions of Schedule 4B to the 1990 Act, and the regulations made under that Schedule - in particular with reference to the publicity given to the proposal to prepare the plan and the contents of the draft plan once made.³²
- 3.19. The actual statutory requirement is in regulation 14 of the 2012 Regulations, and is as follows:
 - “Before submitting a plan proposal to the local planning authority, a qualifying body must—
 - (a) publicise, in a manner that is likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area—
 - (i) details of the proposals for a neighbourhood development plan;
 - (ii) details of where and when the proposals for a neighbourhood development plan may be inspected;
 - (iii) details of how to make representations; and
 - (iv) the date by which those representations must be received, being not less than 6 weeks from the date on which the draft proposal is first publicised;
 - ...”

³¹ PCPA 2004, section 38A(6).

³² TCPA 1990. Schedule 4B. paragraph 4. applied by PCPA 2004. sections 38A(3). 38C: NP(G)R 2012.

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- 3.21. It is clear that this cannot require a neighbourhood plan to be brought to the attention of all the people who live or work in an area, including children and hospital patients. There has to be a balance between what might be ideal, in the absence of financial and other constraints, and what is practical.
- 3.22. Such concerns were no doubt anticipated by those creating the statutory scheme for neighbourhood plans, as the Regulations provide that the submission of a proposed neighbourhood plan by a qualifying body to a planning authority is to be accompanied by a “consultation statement”, which is to explain who was consulted, how, and with what result.³³ It appears that the statement is not to be limited to the consultation required to be carried out under regulation 14.
- 3.23. In this case, the consultation that was carried out in this case was described fully in the *Consultation Statement*, issued in December 2013. This makes it plain that a large number of the residents of Barnham and Eastergate were involved in the preparation of the Proposed Plan.
- 3.24. No objections on procedural grounds to the Proposed Plan have been made by any of those who responded to the consultation.
- 3.25. I am satisfied that the consultation exercise undertaken in this case was sufficient to publicise the Proposed Plan, in a manner that was likely to bring it to the attention of people who live, work or carry on business in Barnham and Eastergate. The requirements of regulation 14 and 15 have therefore been satisfied.

Other statutory obligations

- 3.26. Where a planning authority is faced with a proposal to make a neighbourhood plan that is in essence very similar to a previous proposal that has been rejected, it may decline to consider it. That does not apply in this case. In any other case, it must consider whether the proposal to prepare a draft plan has been properly made, and submit it for independent examination.³⁴ The District Council in this case has acted entirely correctly.
- 3.27. The Parish councils and the District Council are also under a duty under section 11 of the Countryside Act 1968 to ensure that in the exercise of their functions relating to land they have regard to the desirability of conserving the natural beauty and amenity of the countryside. This may be relevant in the case of allocating for development sites at the edge of the built-up area of Barnham and Eastergate. However, I have no doubt that they were well aware of the fact that development in such locations would have an impact on the beauty and amenity of the countryside, and took that into account in considering which sites to promote.
- 3.28. I see no need to recommend any modifications to comply with these obligations.

³³ NP(G)R 2012, regulation 15(1)(b), (2).

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The area for a referendum

- 3.29. In the event that I recommend that the Proposed Plan be submitted to a referendum, the area for that referendum could extend beyond the area to which the Plan relates - that is, the parishes of Barnham and Eastergate.
- 3.30. I note that the site allocated in the Proposed Plan for residential development is close to the boundary between Eastergate and Westergate. It is inevitable that the carrying out of development towards the edge of one neighbourhood will have some impact on the next one; and that will no doubt be the subject of anxious scrutiny at the time of any planning application. If such impact is both unavoidable and unacceptable, permission would no doubt be refused; otherwise, any permission would be subject to conditions requiring the adverse impacts to be mitigated as far as possible. Clearly the development in question in this case would have some limited impact on surrounding areas; but I have seen nothing to suggest that such impact would be in any way exceptional, such that the views of those in Westergate should be sought.
- 3.31. There is also in the emerging Local Plan a strategic housing allocation on a very large site that straddles the boundary between Eastergate and Westergate (see paragraph 13.11 below). However, that is outside the scope of this Plan, and does not of itself justify the Plan being voted on by a wider area.
- 3.32. I am satisfied that, if a referendum is to be held, it should be only in the parishes of Barnham and Eastergate.

Modifications for the purpose of correcting errors

- 3.33. Finally, in the course of my examination of the Proposed Plan, I noticed several minor errors. These are listed in Annexe B.

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4. Overall structure of the Plan

- 4.1. The starting point is that a neighbourhood plan should contain clear policies, and provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency (see para 2.10, 2.11, 2.18 above).³⁵ It is therefore important that the plan has a clear and coherent structure.

The numbering of chapters and paragraphs in the existing Proposed Plan

- 4.2. The existing structure of the Proposed Plan is unfortunately slightly muddled. The contents are as follows:

1. Foreword
2. Introduction

Section 1. A Vision for Barnham and Eastergate

1. Barnham and Eastergate Today
2. Issues that have influenced the vision
3. Vision Statement and Core Objectives
4. The Future Vision for Barnham and Eastergate

Section 2. Neighbourhood Plan Policies

Section 2. Introduction to Policies

- 2.1 Introduction
- 2.2 The Presumption in Favour of Sustainable Development Environment and Sustainability (paragraphs 2.1 to 2.18)
3. Getting around
4. Community, Leisure and Wellbeing
5. Employment and Enterprise
6. Housing and Design Quality

Map A. Proposed Changes to the Eastergate Built-up Area Boundary

Map B. Proposal Map

Appendix A - Sites Allocated for Housing

Appendix B - Sites with Planning Approval or Appeal Pending

Appendix C - List of Flooding Incident Locations

Appendix D - Assets of Community Value

Appendix E - Local Green Spaces map E

Appendix F - Local Open Spaces

Evidence Base

- 4.3. It will be readily appreciated that this is very different from the “Content” as listed on page 2 of the Proposed Plan. It also introduces confusion in that there are several chapters and paragraphs with the same numbers

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(there are, for example, a paragraph 2.1 on page 4; a section 2.1 and four paragraphs together numbered 2.1.1 on page 11; a section 2.1 and a paragraph 2.1.1 on page 26; and a paragraph 2.1 on page 28). And there are significant overlaps between Chapter 1 and Chapter 2 in Section 1, with some text appearing on both chapters (see paragraph 6.2 below).

- 4.4. There are also significant overlaps between Chapter 3 and Chapter 4, and confusion between the “principles” set out in paragraph 3.2, the matters set out at paragraph 3.3, the “objectives” set out in the table below paragraph 3.5, and the elements of the vision set out in Chapter 4.
- 4.5. Further, taking as an example the topic “getting around”, the six objectives set out below paragraph 3.5 (on page 20 of the Proposed Plan) are different from the three listed in the table at the top of page 33, which are different in turn from the one objective in the highlighted box above policy GA1 on that page. And policy GA2, in the table at the top of page 33, is different from the version set out in coloured type below paragraph 32 on that page, which is in turn different from the version in the bullet point immediately below it.
- 4.6. And the policies are in many cases far from “clear and unambiguous” (see paragraph 2.18 above), as explained in more detail at paragraphs 8.3 to 8.7 below.
- 4.7. Finally, the last part of the Proposed Plan, as published, contains much - but not all - of the evidence base also available on the websites of the two Parish Councils. And the maps in the Plan, at least in the form supplied to me, are very unclear.
- 4.8. Such confusion will be unhelpful if the plan is to be used as a basis for making decisions on planning applications; and means that the Proposed Plan, in its present form, taken as a whole does not comply with the basic conditions.

Recommended restructuring

- 4.9. The problems outlined above do not mean that the Proposed Plan is fundamentally unsound, or in breach of the basic conditions, save insofar as it is unclear, and therefore difficult to use in practice. To remedy this, I have made a number of recommendations, summarised below and set out in more detail in the remainder of this report, that will lead to the emergence of a clearer and more coherent Plan. I have set them out in the form of reasonably detailed editorial guidance, as I hope that will be helpful; but there are no doubt other ways in which the same result could be achieved.
- 4.10. The Foreword to the Proposed Plan (page 3) is not part of the Plan itself, and should not be numbered as Chapter 1.
- 4.11. The existing Chapter 2 (Introduction) should become Chapter 1, and should include existing paragraph 4.7. This is considered in more detail in Chapter

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- 4.12. The existing Chapter 1 (Barnham and Eastergate today) and Chapter 2 (Issues that have influenced the vision) significantly overlap, and should be amalgamated into a new Chapter 2. This is considered in more detail in Chapter 6 of this report.
- 4.13. The existing Chapter 3 (Vision Statement and Core Objectives) and Chapter 4 (The future Vision for Barnham and Eastergate) also significantly overlap, and should be replaced by a single Chapter, highlighting a series of principles that underlie the land-use policies in the remainder of the Plan. This is considered in more detail in Chapter 7 of this report.
- 4.14. The existing Paragraphs 2.1.1, 2.1.2 and 2.2.1 (on page 26) are distinct from the Environment and Sustainability policies that follow, and should form a new Chapter 4. This is considered in more detail in Chapter 8 of this report.
- 4.15. The existing sections dealing with each of the five topic areas should become new Chapters 5 to 10. In each case
- the table at the start of the section, setting out the objectives and the policies, should be deleted;
 - the objective in the highlighted box beneath that table should be deleted;
 - the policies should be grouped under new headings, each relating to one aspect of the general topic; and
 - each policy should appear in one form only, rather than the coloured text and bullet point as at present.

This is considered in more detail in Chapters 9 to 13 of this report.

- 4.16. The existing Map A (Proposed change to the built-up area) appears not to be referred to anywhere in the Proposed Plan, and should be deleted.
- 4.17. The existing Appendix C (List of flooding incident locations) is available on the Evidence Base website,³⁶ and should be deleted.
- 4.18. The existing Appendix D (Assets of Community Value), Appendix E (Local Green Spaces) and Appendix F (Local Open Spaces) become respectively Schedules A, B and C, subject to amendments considered at paragraphs 11.14 and 11.24. Each of these Appendixes should include a map showing clearly the location of the relevant items, replacing those at pages 92 and 93. The existing Appendix B (Sites with planning approval or appeal pending) becomes Schedule D (Sites where planning permission has been or may be granted) - see paragraph 13.18 of this report.
- 4.19. Legible maps showing the area covered by the Plan, the conservation areas, the area of special character, and the open spaces should be included at appropriate points (see paragraphs 5.10, 9.15, 11.24). The existing Map B (Proposals Map) relates to Policy HDQ1, and should be included within the new Chapter 9 (see paragraph 13.34).

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- 4.20. As for the Section of the Proposed Plan entitled Evidence Base, the first sections (Governance, Communications Strategy, and Evidence of Community Engagement; existing pages 61-63) would be more appropriately included within a revised version of the *Consultation Statement*. All of the remaining material is contained in the Evidence Base website, along with other material not printed in the Proposed Plan, and does not need to be repeated in the Plan; although a reference to the relevant documents on the website could usefully be made at the end of each section of the new Chapter 2 (see paragraph 6.11).
- 4.21. The division of the Proposed Plan into "Sections" becomes unnecessary; so pages 7 and 25 should be omitted - although the artwork currently on those pages could no doubt be used at appropriate points to illustrate and enliven the Plan.
- 4.22. The new structure of the Plan would then be as follows, set out in more detail in Annexe A to this report:

Foreword

1. Introduction
2. Barnham and Eastergate today
3. Vision statement and core objectives
4. Introduction to the policies
5. Environment and sustainability
6. Getting around
7. Community, leisure and wellbeing
8. Employment and enterprise
9. Housing

Maps

- A. The Area of the Barnham and Eastergate Neighbourhood Plan
- B-D. Conservation areas
 - E. Area of special character
 - F. Open spaces
 - G. Proposals Map

Schedules

- E. Possible assets of Community Value
- F. Local Green Spaces
- G. Local Open Spaces
- H. Sites where planning permission has been or may be granted

Recommendation

- 4.23. I recommend that the Plan is restructured broadly as indicated above, and explained in more detail in the following chapters of this report.



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5. New Chapter 1: Introduction

Overall structure

- 5.1. The existing Chapter 2 (Introduction) introduces the legal and procedural basis for the Proposed Plan. Paragraphs 2.1 to 2.4 explain what the Neighbourhood Plan is; paragraphs 2.2 to 2.7 how it fits into the planning system. Paragraphs 2.8 explains the scope of the Plan and how it is organised; and paragraph 2.11 introduces the Evidence Base.
- 5.2. In order to fit in with the recommended overall structure of the Plan, outlined in the previous Chapter of this report, I recommend:
- (a) that the existing Chapter 2 (on pages 4 and 5) is renumbered Chapter 1;
 - (b) that a new heading, “1.1 The Neighbourhood Plan”, is introduced above existing paragraph 2.1, and existing paragraphs 2.1 to 2.4 are renumbered paragraphs 1.1.1 to 1.1.4;
 - (c) that the heading above existing paragraph 2.5 is numbered 1.2, and existing paragraphs 2.5 to 2.7 are renumbered 1.2.1 to 1.2.2;
 - (d) that the heading above existing paragraph 2.8 is amended to read “1.3 The scope of the Neighbourhood Plan”, the heading above existing paragraph 2.9 is deleted, and existing paragraphs 2.8 and 2.9 are renumbered 1.3.1 and 1.3.2;
 - (e) that paragraph 1.3.2 (existing paragraph 2.9) is reworded as follows:
 - “1.3.2 This plan is divided into two parts:
 - Chapters 1 to 4 set out the background to the Plan, and outline the vision and objectives underlying the policies;
 - Chapters 5 to 9 set out the policies relating to each of the topic areas.”
 - (f) that a new heading, “1.4 The Evidence Base”, is introduced above existing paragraph 2.11, and that existing paragraph 2.11 is renumbered 1.4.1; and
 - (g) that Plan 1 is replaced with a clear map of the two parishes

Done

(g) that Plan A is replaced with a clear map of the two parishes.

- 5.3. The existing paragraph 4.7, outlining the arrangements for the monitoring and review of the Neighbourhood Plan, would more appropriately form part

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of this Chapter than the existing Chapter 4, which relates to general vision rather than to process.

- 5.4. I recommend that existing paragraph 4.7 is renumbered 1.5.1, and moved to form the last paragraph of new Chapter 1, beneath a new heading "1.5 Monitoring and Review".

Done

The Neighbourhood Plan

- 5.5. A neighbourhood development plan must specify the period for which it is to have effect.³⁷ In this case, there is no clear statement within the body of the Proposed Plan as to the period for which it will have effect - other than the title on the cover. That could be included in the existing paragraph 2.2. The second sentence of that paragraph is duplicated by existing paragraph 2.5, and is therefore not necessary; the reference to the Structure Plan is also confusing.

- 5.6. I recommend that paragraph 1.1.2 of the Proposed Plan (existing paragraph 2.2) is reworded as follows:

"1.1.2 The Plan provides a vision for the future of the two villages, and sets out clear objectives and policies to realise this vision. It will have effect from 2014 to 2029."

Done

How the Neighbourhood Plan fits into the planning system

- 5.7. The existing paragraph 2.10 fits better into this section, after existing paragraph 2.7. It would also be helpful to make it clear that the Neighbourhood Plan, once made, forms part of the development plan that performs a key role in the determination of planning applications in the area.
- 5.8. Secondly, in the event of a conflict between a policy and other material in a neighbourhood development plan, the policy must prevail.³⁸ This is no more than a principle of law, and therefore does not have to be stated explicitly within the Plan. However, it would be helpful if the Proposed Plan were to contain such a provision.
- 5.9. I recommend that two new paragraphs is inserted after paragraph 1.2.3 (existing paragraph 2.7):

"1.2.4 This entire document forms the neighbourhood development plan for the area to which it relates - the villages of Barnham and Eastergate. If to any extent a policy in the Neighbourhood Plan conflicts with any other statement or information in the plan, the policy is to prevail.

Done

1.2.5 The Neighbourhood Plan, once made, forms part of the development plan for that area. The development plan is the

³⁷ PCPA 2004, section 38B(1)(a).

³⁸ PCPA 2004, section 38B(3)

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principal basis on which applications for planning permission
are to be determined.”

The map showing the area covered by the Plan

- 5.10. It is clear from the Regulations - and not at all surprising - that a key component of any proposal to make a neighbourhood plan is “a map or statement which identifies the area to which the proposed ... plan relates”.³⁹ There is in this case no doubt as to the area that is the subject of the Plan; but it is surprising that there is within it no proper map showing its extent. In particular, Plan A in the Proposed Plan, at least in the copy supplied to me, is virtually indecipherable (compared to, for example, the plan of the “parish” on the District Council website⁴⁰).
- 5.11. **I recommend that Plan A should be replaced with a clearer plan, headed “Map A. The area of the Barnham and Eastergate Neighbourhood Plan”.**

Done

The Evidence Base

- 5.12. There appears to be no document on either Parish Council’s website summarising the Evidence Base.
- 5.13. **I recommend that the second sentence of paragraph 1.4.1 is reworded as follows:**
- “Links to all of the relevant documents are available via the websites of each of the Parish Councils (<http://barnham.arun.gov.uk/main.cfm?type=KEYDOCUMENTS> and <http://eastergate.arun.gov.uk/main.cfm?type=KEYDOCUMENTS>).”
- 5.14. I have already noted that the Evidence Base does not need itself to be reprinted as part of the Neighbourhood Plan, since it is available (in a fuller form) online.

Done

³⁹ NP(G)R 2012, regs 15(1)(a), 17(b).

⁴⁰ http://www.arun.gov.uk/mediaFiles/downloads/86932115/B_E_ParishBoundary.pdf.

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6. New Chapter 2: Barnham and Eastergate today

- 6.1. In the existing Section 1 of the Plan, Chapter 1 ("Barnham and Eastergate today") and Chapter 2 ("Issues that have influenced the vision") both set out the basis for the making of the Plan in terms of the factual background and the issues that concern local people.
- 6.2. There is, as noted earlier, considerable overlap between and within the two chapters - for example,
- the last sentence of 1.4 is similar to the second paragraph of 2.1.1;
 - the second and third sentence of 1.5 are similar to the first and second sentence of 2.4.2;
 - the first paragraph at 1.6 is similar to the first and second sentences of paragraph 2.4.1; the second is similar to the second sentence of paragraph 2.4.5;
 - paragraph 1.7 is contained within paragraph 2.2;
 - paragraph 1.8 is identical to paragraph 2.5.3 (except the first two sentences);
 - paragraph 1.9 is identical to paragraphs 2.5.11 and 2.5.12;
 - paragraph 1.10 includes the material in the first sentence of paragraph 2.5.4; and
 - paragraph 2.4.9 (except the first sentence) is identical to paragraph 2.5.13.
- 6.3. As noted earlier, all plans should provide a practical framework for decision-making (see paragraph 2.11 above); and whilst the principal focus of the NPPF guidance is on the policies in a plan, the introductory sections provide part of the basis for those policies, and should therefore also be clear, if the plan as a whole is to meet the basic conditions.
- 6.4. With that in mind, the Plan would be clearer, and easier to use, if existing Chapter 1 and Chapter 2 in Section 1 were combined into a single chapter, gathering together the material in relation to each topic. One way in which this could be done as follows:
- | | |
|------------------------|--|
| 1. Introduction | existing 1.1 |
| 1.2. History | existing 1.2 |
| 1.3. General character | existing 1.3, 1.4 (excluding last sentence),
1.5, 2.1.1 (except third para) |

- 1.3, 2.1.1 (except third para)
- 1.4.Environment and sustainability existing 2.2, 2.3
- 1.5.Getting around existing paras [2.4.0],
2.4.1-2.4.7, 2.4.10

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- 1.6.Community, leisure and wellbeing existing paras 1.10,
2.5.1-2.5.12, 2.1.1 (third para)
- 1.7.Employment and enterprise existing paras 2.4.8, 2.4.9,
2.6.1-2.6.9
- 1.8.Housing existing paras 2.7.1-2.7.3
- 6.5. This consolidation exercise will need to be done in such a way as to eliminate the overlapping material, noted above, and to bring together the material under each heading so that it forms a coherent whole. So, for example, existing paragraph 1.4 and the first paragraph at existing 2.1 are not identical, but they are similar; they could remain as two separate paragraphs, but with thought given as to what should be in each. The third paragraph of 1.5 and the last paragraph of 2.1.1 could be combined into a single paragraph, as they relate to the same location.
- 6.6. It would be helpful for each paragraph to be numbered in accordance with a consistent three-tier numbering system - as has been done in some parts of the existing Plan but not others. So, for instance, the four paragraphs that are currently together numbered 1.2 would be numbered 2.2.1 to 2.2.4. This would assist users in referring to particular provisions of the Plan.
- 6.7. It may be that when the text relating to each of the topics is consolidated in this way, it will be seen that some material can be omitted; or other relevant material should be included.
- 6.8. Paragraphs 1.6 to 1.9 and 2.5.13 could then be omitted, as they are duplicated elsewhere.
- 6.9. **I recommend that Chapters 1 and 2 in Section 1 of the Plan (pages 8 to 17) are combined into a single Chapter and consolidated along the lines indicated above.**

Done

Evidence base

- 6.10. It would be helpful to include under each of the above headings a brief reference to the relevant section of the evidence base, currently reproduced in full in the last section of the Plan. So, for example, the last paragraph under the heading "2.5 Getting Around" would be:
- "2.5.x Evidence of the extensive research carried out to understand the local transport infrastructure can be found on the web-site. In particular:
- Car Parking Survey, March 2013
 - Transport Infrastructure report

Done

Also relevant are the responses to the questions 2 29 and

Also relevant are the responses to the questions 2, 29 and 62-64 in the October 2013 residents survey."

The same approach could be used for each of the other topic areas.

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6.11. I recommend that the web-based Evidence Survey is referred to as indicated above.

Done

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7. New Chapter 3: The principles underlying the Plan

Existing Chapters 3 and 4

- 7.1. In the existing Section 1 of the Plan, Chapter 3 (“Vision Statement and Core Objectives”) and Chapter 4 (“The Future Vision for Barnham and Eastergate”) both set out the basis for the making of the Plan, in terms of the underlying principles, the vision, and the objectives.
- 7.2. Unfortunately, as noted earlier, there is significant overlap between :
 - the principles set out at paragraph 3.2,
 - the matters set out at paragraph 3.3,
 - the “objectives” set out in the table below paragraph 3.5, and
 - the elements of the vision set out in Chapter 4.
- 7.3. There is also confusion between
 - the objectives set out in the table below paragraph 3.5,
 - the objectives set out in the left-hand column of the table at the start of each topic chapter, and
 - the single objective set out in the coloured box beneath that table in each chapter.
- 7.4. Within each of these lists of principles and objectives, there is no consistency as to the order of the subject matter, so that it is very difficult to compare and comprehend all those that relate to a single topic.
- 7.5. A further problem is that many of the elements of the vision, as set out in paragraph 3.2, and many of the objectives are aspirations that - however desirable in principle - do not relate clearly or at all to the policies in the later chapters. And many are only tenuously related to land use. To take but two examples, the objectives to “lobby for high levels of emergency service cover” and “support opportunities for increased employment within the local six villages, Bognor Regis, Littlehampton and Chichester” are not mentioned again in the remainder of the Plan.
- 7.6. This lack of clarity will cause problems to those seeking to use the Plan as the basis for making decisions, meaning that the Plan does not comply with the basic conditions.

Recommended redrafting

Recommended redrafting

- 7.7. It would perhaps be possible to amalgamate all of the contents of Chapters 3 and 4 into a single, composite chapter, eliminating all the references to matters not relating to land use. However, a more straightforward approach would be:

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- to omit most of Chapter 3 and all of Chapter 4; and
 - to omit the table at the start of each topic chapter, and the objective set out in the coloured box beneath that table.
- 7.8. I recommend that, in the interests of clarity, the Proposed Plan is redrafted as follows:
- (a) that Chapter 3 is renamed “3. The principles underlying the Plan”;
 - (b) that a new heading “3.1 Introduction” is inserted above the first paragraph of Chapter 3, that the first paragraph is numbered 3.1.1, and that for “core objectives” is substituted “the principles underlying the Plan”;
 - (c) that the heading “The vision statement” above the second paragraph (above existing paragraph 3.1) is omitted, that the paragraph is numbered 3.1.2, and reworded:

“The vision underlying this Plan is to value ...”
 - (d) that existing paragraph 3.1 is renumbered 3.1.3;
 - (e) that a new heading “3.2 The principles” is inserted above existing paragraph 3.2, that the paragraph is renumbered 3.2.1, and that for the word “must” is substituted “should”;
 - (f) that a new paragraph is inserted beneath the new paragraph 3.2.1, as follows:

“3.2.2 The remainder of this Plan seeks to translate these principles, so far as possible and appropriate, into land use policies.”;
 - (g) that paragraphs 3.3, 3.4 and 3.5 and the table beneath paragraph 3.5 are omitted; and
 - (h) that Chapter 4 is omitted.

Done

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8. New Chapter 4: Introduction to the policies

- 8.1. The existing Plan contains at page 26 a section relating generally to the specific topic policies that follow. This is under two headings, and contains paragraph numbers 2.1.1, 2.1.2 and 2.2.1. It is followed by the section relating to “Environment and sustainability”, with explanatory paragraphs numbered 2.1 to 2.18. This structure is confusing, and the material on page 26 should be made a separate chapter.

The topic chapters

- 8.2. Existing paragraph 2.1.1 refers to policies on business and tourism, which no longer appear as such - maybe there were policies under this heading in an earlier draft, but this topic seems to be now dealt with under the heading “employment and enterprise”. And the order of the topics should follow the order of the following chapters.

The structure of each topic chapter

- 8.3. Existing paragraph 2.1.2 describes the structure of each of the topic chapters. As noted in Chapter 3 of this report, there is a confusion between the objectives set out in the table at the start of each topic and the single objective in the coloured box beneath that table (see para 4.5 above). This could be avoided if the table at the start of each topic Chapter, setting out the objectives and the policies, and the highlighted box beneath that table, were both simply deleted.
- 8.4. There is also inconsistency between the description of each policy in the right-hand column of the opening table, the heading of the policy in coloured type in the main text, and the wording immediately beneath that coloured heading, generally (but not always) introduced by bullet points.
- 8.5. Thus, for example, Policy ES5 (on page 29) is framed as follows:

Policy ES5: Development proposals must maintain visual connections with the countryside.

- Open views towards the countryside or across open spaces must be maintained. An assessment of views to and from the development must be produced to accompany all planning applications.

Those two both look like policies, but their impact might be slightly

Those two both look like policies, but their impact might be slightly different in a particular case, since the heading does not refer to “open spaces”.

- 8.6. More significantly, the table on page 35 refers to Policy CLW8 as follows:

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“Contributions required from developers of new housing to ensure adequate places for children to attend primary schools in Barnham and Eastergate”.

The heading for that policy on page 37 is as follows:

“Policy CLW8: Developments which ensure adequate facilities for children to attend primary schools in Barnham and Eastergate will be supported”.

The wording beneath that heading is as follows:

“Existing school playing fields will be protected from development, unless the school is relocated to a suitable, larger site within the parishes.”

And the justification for that policy is as follows:

“4.8 The direction of developer contributions into schemes that improve provision of school facilities are a priority for the villages”.

It will be readily appreciated that these four are all saying quite different things; and it is not clear which is the “policy” as such, nor what is the purported justification.

- 8.7. Similar problems arise in relation to a number of the other policies. And some policies (for example, ES12) have only a heading and a justification, but no bullet-point policy text.

Redrafting to improve clarity

- 8.8. The problems referred to above could be resolved if, as well as removing the table and box at the start of each topic chapter, each policy were to be redrafted so that it consists of:

- a heading, stating simply the topic to which it relates - in coloured type (following the convention in the existing Plan),
- the policy itself - in bold type, and
- the text providing a justification for it - in normal type.

- 8.9. So, for example, I recommend in the next Chapter that Policy ES5 (see above) could be framed as follows:

“Policy ES4. Protection of open views

Open views towards the countryside or across open spaces should be maintained. An assessment of views to and from a new development should accompany a planning application wherever relevant.”

development should accompany a planning application wherever relevant.”

- 8.10. To make the Plan clearer and more usable, and to ensure that it complies with paragraphs 15 and 17 of the NPPF and the PPG and thus with the basic conditions (see paragraphs 2.10, 2.11, 2.18 and 2.19 above), the contents of the topic chapters need to be reworded in accordance with approach outlined above and explained in more detail in the following Chapters of this report.

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- 8.11. The wording of paragraphs 4.1.1 and 4.1.2 (existing paragraphs 2.1.1 and 2.1.2 on page 26) then need to be adjusted accordingly.
- 8.12. In order to fit in with the recommended overall structure of the Plan, outlined in Chapter 3 of this report, and accordance with the discussion above, I recommend:
- (a) that the text on existing page 26 become a separate chapter (*Chapter 4: Introduction to the Policies*);
 - (b) that the existing heading “2.1 Introduction” is renumbered “4.1”; and
 - (c) that existing paragraphs 2.1.1 and 2.1.2 are renumbered 4.1.1 and 4.1.2, and reworded as follows:
 - “4.1.1 Chapters 1 to 3 have set out the overall vision for Barnham and Eastergate. The following Chapters set out the policies to support and deliver that vision. The policies are grouped in relation to the following topics:
 - Environment and Sustainability
 - Getting Around
 - Community, Leisure and Wellbeing
 - Employment and Enterprise
 - Housing.
 - 4.1.2 Each topic has its own Chapter. Each chapter is broken into sections relating to particular aspects of the topic, containing policies relating to it. Each policy is set out in bold type, followed by text providing a justification for it.”

The presumption in favour of sustainable development

- 8.13. Existing paragraph 2.2.1 sets out the basic presumption in favour of sustainable development, reflecting the wording of paragraph 14 of the NPPF. However, the presumption is in favour of allowing development proposals that accord with the development plan as a whole, not just the neighbourhood plan. The paragraph as it stands thus does not comply with the basic conditions.
- 8.14. A neighbourhood plan cannot contain policies relating to minerals and waste development, which are the preserve of the County Council; in relation to other development, there is only one local planning authority,

relation to other development, there is only one local planning authority, the District Council. The text needs revising accordingly.

8.15. The last paragraph is superfluous, and can be deleted.

8.16. I recommend:

- (a) that the existing heading “2.2 The Presumption in Favour of Sustainable Development” is renumbered “4.2”;

Done

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- (b) that existing paragraphs 2.2.2 is renumbered and reworded as follows:

Done

“4.2.1 Barnham and Eastergate Parish Councils will take a positive approach to their consideration of development. The two Councils and the District Council will seek to work with applicants and other stakeholders to encourage the formulation of development proposals that can be approved.

4.2.2 In line with paragraph 14 of the NPPF, development proposals that accord with all of the relevant policies in the Neighbourhood Plan will be approved without delay, unless:

- other policies in the development plan (including the Arun Local Plan) or
- other material considerations

Need clarity here

indicate otherwise.

4.2.3 Where the development plan is silent in relation to a particular proposal, or out-of-date, permission will be granted unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against specific policies in the NPPF and the NPPF taken as a whole.”

Wording of policies in topic chapters

8.17. The policies in the existing Plan are framed in various ways. For example, Policy ES1 and ES5 state that “applications must address ...” and “development ... must maintain”; ES2 states that “all new dwellings will be designed ...”; ES4 states that “new development ... is not appropriate and will not be supported”; ES7 states that “Generally, buildings should be designed ...” - emphasis added in each case. And there are other formulations.

8.18. Unconditional or mandatory policies (containing wording such as “must”, “must not” or “will not be permitted”) are generally not appropriate, since they do not allow for a balancing exercise to be undertaken in relation to each individual development proposal. Thus it may be that one policy suggests that a development proposal should be allowed, whilst another suggests that it should be refused. The statutory requirement is simply that development should be allowed provided that it complies with the

development should be allowed provided that it complies with the development plan as a whole, national policy as a whole, and all other material conditions. A policy in a neighbourhood plan that is overly restrictive or prescriptive is thus not in accordance with the basic conditions.

- 8.19. A further problem is that the Neighbourhood Plan is produced by the Parish Councils, whereas decisions on planning applications will be taken by the

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District Council. That too suggests that overly prescriptive policies are inappropriate.

- 8.20. In redrafting the policies of the Plan, in the following chapters of this Report, I have accordingly sought to frame them so as to respect as far as possible the existing wording, but using terms such as:

“Development should [or should not] do such and such”; or

“Development that does so and so will be supported [or will be resisted]”.

- 8.21. Most importantly, I have already noted that the policies are in many cases far from “clear and unambiguous”, and therefore not in accordance with the guidance in the PPG (see paragraph 2.18 above). In redrafting the policies, I have therefore attempted to ensure that they are clear and unambiguous, so as to comply with the basic conditions.

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9. New Chapter 5: Environment and sustainability

- 9.1. This Chapter of the Proposed Plan provides policies that principally relate to the following issues:
- flooding and drainage (existing Policy ES1);
 - the location of new development (existing ES4, ES5);
 - the design of new development (existing ES3(i), ES7);
 - the protection of existing important features (existing ES6, ES8, ES9); and
 - energy efficiency (existing ES10(ii), (iii)).
- 9.2. For the reasons set out in the previous Chapter of this report (see paragraph 8.3), I recommend that the table at the start of this Chapter of the Proposed Plan (on page 27), setting out the objectives and the policies, and the highlighted box beneath that table, is deleted.
- 9.3. I consider the policies in this Chapter referred to above under each of the headings listed above. To make the Plan clearer and more usable, so that it complies with paragraphs 15 and 17 of the NPPF, and the PPG, and thus with the basic conditions (see paragraphs 2.10, 2.11 and 2.19 above), I have redrafted each policy in accordance with the approach described at paragraphs 8.9 and 8.20 of this report.
- 9.4. I briefly consider existing Policies ES2, ES3(ii), ES10(i) and ES12 at the end of this Chapter.

Flooding and drainage

- 9.5. The problems of flooding and drainage are clearly (and understandably) of paramount concern to the local communities in Barnham and Eastergate, in the light of a long history of flooding incidents. Existing Policy ES1 deals with this, and provides a more detailed outworking of ADLP Policy GEN9.
- 9.6. The first bullet point of existing Policy ES1 prohibits all development of any consequence until after the completion of the Surface Water Management Plan for Lidsey Catchment and the Aldingbourne and Barnham Rife Strategy. The District Council objects on the grounds that this policy seems unreasonably restrictive, and that there is insufficient justification for it.

unreasonably restrictive, and that there is insufficient justification for it. The evidence base considers the issue of flooding in some detail, and arguably provides sufficient justification. However, some modification to the policy would be appropriate, to allow for the possibility of a developer being able and willing to provide an appropriate flood risk assessment in relation to a particular proposal, prior to the completion of the Plan and the Strategy.

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- 9.7. In existing Policy ES1, the second and fourth bullet points relate to matters that should be the subject of conditions, and the policy should be rephrased accordingly.
- 9.8. The third bullet point, relating to SuDS, is largely a more detailed outworking of the second point, and would more appropriately be framed as a paragraph of supporting text, in place of existing paragraph 2.3 (which is anyway in identical terms).
- 9.9. The fourth bullet point relates to different point, namely watercourses, and should be the subject of a separate policy, supported by paragraph 2.4. The District Council also makes the sensible point that some watercourses may not be suitable for opening up, so that the policy should be in less prescriptive terms.
- 9.10. I recommend that Policies ES1 and paragraphs 2.1 to 2.4 are redrafted as follows:

"5.1 Flooding and drainage

Policy ES1. Flooding, drainage and new development

New development should aim to reduce the overall level of flood risk in the area:

- **Development, other than minor domestic or commercial extensions, will not be supported**
 - without clear evidence having provided of there being no flood risk (either to the development site or to other land) arising from the carrying out and use of the development, or
 - until after the completion of the Surface Water Management Plan for Lidsey Catchment and the Aldingbourne and Barnham Rife Strategy.
- **Planning permission should only be granted for new development should only be allowed subject to a condition that:**
 - no development shall commence until full details of the proposed drainage schemes for surface water and foul water (include details of their routeing, design, and subsequent management and maintenance) have been submitted to and approved in writing by the planning authority; and

authority; and

- no building shall be occupied until the drainage schemes have been implemented in accordance with the approved details.

5.1.1 *[as per existing paragraph 2.1]*

5.1.2 *[as per existing paragraph 2.2]*

5.1.3 Sustainable Urban Drainage Systems (SuDS) may be an acceptable alternative to conventional drainage will be supported

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provided that they can be shown to be suitable in the intended location. Where they are used, a site-specific maintenance manual should be submitted to and approved in writing by the planning authority, to include details of ... *[as per existing paragraph 2.3]*

Policy ES2. Watercourses

The opening up of watercourses and their banks for recreation and amenity use is generally supported; but the culverting or constricting of watercourses and their immediate environs will be resisted.

5.1.4 *[as per existing paragraph 2.4]"*

The location of new development

9.11. Existing Policies ES4 and ES5 both relate to the location of new development. Policy ES4 in particular is in conformity with ADLP Policy AREA 11(iv). The only caveat to that is that it should be made plain that the replacement of an existing building with a new replacement of equivalent size, or the minor extension of an existing building, would presumably be acceptable. They meet the basic conditions, subject to being redrafted in line with paragraph 8.9 above.

9.12. I recommend that Policies ES4 and ES5 and paragraphs 2.7 and 2.8 are redrafted as follows:

"5.2 The location of new development

Policy ES3. The Local Gap / Green Infrastructure Corridor

New development within the Local Gap / Green Infrastructure Corridor, other than the replacement or minor extension of an existing building, is not appropriate and will not be supported.

5.2.1 *[as existing paragraph 2.7]*

Policy ES4. Protection of open views

Open views towards the countryside or across open spaces should be maintained. An assessment of views to and from a new development should accompany a planning application wherever relevant.

5.2.2 *[as existing paragraph 2.8]*

The design of new development

- 9.13. The first bullet point of existing Policy ES3 relate to the design of new development, as does existing policy ES7. Both are broadly in conformity with ADLP Policy GEN7 and NPPF section 7. The reference in ES3 to a forthcoming Design Guide is inappropriate in its existing form, as there is no way in which those responding to the draft plan could know what was to be included. Once such a Guide has been produced, and adopted by the

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District Council as SPG in accordance with ADLP para 1.41, it will then be appropriate for it to become a material consideration.

- 9.14. Existing Policy ES6 deals with two distinct points. The second sentence is a summary of the oft-repeated policies as to development affecting listed buildings, conservation areas or the area of special character. It summarises ALDP Policies AREA1, AREA2 and DEV10 to DEV12, save that those policies require that those buildings and areas in question be preserved or enhanced, rather than “conserved and enhanced”. There needs to be some justification for this policy.
- 9.15. It would be helpful - although not essential - for the boundaries of the conservation areas and the area of special character (as they are at present) to be shown on clearly drawn maps - the conservation area maps at pages 94-96 of the Proposed Plan are of rather poor quality, and there is no map showing the Area of Special Character. But the application of the policy will not be limited to those assets that have been designated at the date when the neighbourhood plan is made.
- 9.16. The first sentence of existing Policy ES6, more positively, seeks to ensure that new development is of high quality, such that it will be valued in the future. It too reflects the policies in NPPF section 7.
- 9.17. The first sentence of paragraph 2.10 does not seem to make sense, and needs redrafting.
- 9.18. However, subject to the above points, and to being redrafted in line with paragraph 8.5 above, these three policies meet the basic conditions.
- 9.19. The second bullet point of existing Policy ES3 and the second paragraph at 2.6 both relate only to residential development, and should be included within the Housing Chapter (see paragraph 9.29 below).
- 9.20. The third bullet point of existing Policy ES3 has no supporting justification, other than possibly the third sentence of para 2.6, and relates to no policy in either the ADLP or the NPPF. It accordingly does not comply with the basic conditions, and should be deleted.
- 9.21. I recommend:
- (a) that the first bullet point of existing Policy ES3, existing Policies ES6 and ES7, and paragraphs 2.6, 2.9 and 2.10 are redrafted as follows:

“5.3 The design of new development

Policy ES5. Quality of design

Policy ES5. Quality of design

All new development within the parishes should be of a high quality design, and will be expected to conform to the forthcoming Barnham and Eastergate Design Guide once it has been adopted as supplementary planning guidance in accordance with paragraph 1.41 of the Local Plan.

5.3.1 *[as the first two sentences of existing paragraph 2.6]*

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Policy ES6. Contribution to local character

New development should contribute positively to the character of the two villages, and should reflect the design qualities of their time, so that the richness of varied character continues and is extended into the future.

5.3.2 *[as existing paragraph 2.9]*

Policy ES7. Development affecting heritage assets

Development affecting

- listed buildings or their settings,
- conservation areas and their settings, or
- the area of special character designated in the Local Plan

should be designed so as to preserve and enhance them, so as to reinforce the quality and character of the villages.

5.3.4 *[justification to be supplied]*

Policy ES8. Detailed design

Buildings should be designed ... *[as existing Policy ES7]*

5.3.5 It is important that development proposals include full details of new buildings, to show that they have been designed so as to be sensitive to their location. Buildings ... *[as second sentence of existing paragraph 2.10]*"

(b) that clear maps are included showing:

- the conservation areas (Maps B to D, replacing those on pages 94 to 96); and
- the area of special character (Map E).

The protection of existing important features

9.22. Existing Policy ES8 relates to the Portsmouth and Arundel Canal, and follows ADLP Policy AREA18.

9.23. Policy ES9 relates to trees and hedgerows, and generally follows ADLP Policy GEN28. The second sentence repeats the first, and is superfluous.

9.24. However, subject to these points, the two policies meet the basic

- 9.24. However, subject to those points, the two policies meet the basic conditions.
- 9.25. I recommend that Policies ES8 and ES9 and paragraphs 2.11 and 2.12 are redrafted as follows:

“5.4 The protection of important features

Policy ES9. The Portsmouth and Arundel Canal

Development proposals ... *[as per existing Policy ES8]*

5.4.1 *[as the first two sentences of existing paragraph 2.6]*

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Policy ES10. Trees and hedgerows

- **Development ...** *[as per existing Policy ES9, with the omission of the second sentence]*

5.4.2 *[as existing paragraph 2.12]*

Energy efficiency

- 9.26. The second and third bullet points of existing policy ES10 relates only to the extension or refurbishment of existing buildings, whereas ADLP Policy GEN24 relates to all new development. NPPF paragraph 95(b) on the other hand relates to existing buildings. The policies should therefore be extended to relate to new as well as existing development, so as to comply more fully with the basic conditions, although further justification will be required to be stated.
- 9.27. Existing Policy ES11 reflects the general thrust of Section 10 of the NPPF, as well as ADLP Policy GEN21, and thus complies with the basic conditions, although it requires slight redrafting.
- 9.28. I recommend that Policies ES10(ii),(iii) and ES11 and paragraphs 2.13 and 2.14 are redrafted as follows:

“5.5 Energy efficiency

Policy ES11. Energy efficiency of new development

New development should wherever possible include the following features:

- high quality, thermally efficient building materials
- double glazing, and
- cavity walls and loft insulation (where relevant).

5.5.1 *[justification to be supplied]*

Policy ES11. Energy efficiency of new development

Where an existing building is extended or refurbished, or there is a change of use,

- the features referred to in Policy ES11 should be included where technically feasible,
- consideration should also be given to upgrading the whole

- consideration should also be given to upgrading the whole property to meet higher energy efficiency standards,
- in the case of residential development, the average household SAP rating should be by a grade (e.g. from E to D),
- where an extension increases the size of a building by more than 30%, on-site energy generation from renewable sources should be incorporated into the site where feasible.

5.5.2 *[as existing paragraphs 2.13 and 2.14]*

Policy ES11: Renewable energy schemes

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Proposals for energy generating infrastructure using renewable or low carbon energy sources to serve individual properties or groups of properties will be supported, provided that:

- the energy generating infrastructure is located as close as practicable of the existing buildings or proposed development it is intended to serve, is in proportion to their scale, and is appropriate to the location;
- The siting ... *[as per second, third, fourth and fifth bullet points of existing Policy ES11]*

5.5.3 *[as existing paragraphs 2.16 and 2.17]*

Other policies

- 9.29. The policies referred to above relate to all development, including housing. But the Chapter also contains some policies that relate specifically to housing development (existing Policy ES2, the second bullet point of existing Policy ES3 and the first bullet point of existing Policy ES10), which should be in new Chapter 9 (Housing). I accordingly deal with these in Chapter 13 of this report (see paragraphs 13.28 to 13.30).
- 9.30. Existing Policy ES12 is largely duplicated by Policy GA2; I accordingly deal with this in the following Chapter of this report (see paragraphs 10.4 to 10.8).
- 9.31. I recommend that the policies referred to in paragraphs 9.28 and 9.29 be deleted.

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10. New Chapter 6: Getting around

- 10.1. This Chapter of the Proposed Plan provides policies that relate to the following issues:
- the provision of pedestrian and cycle routes (existing Policies GA1, GA2, and ES12);
 - the provision and protection of parking (existing GA3, GA4(ii)); and
 - improvements to public transport (existing GA4(ii)).
- 10.2. For the reasons set out in Chapter 8 of this report, I recommend that the table at the start of this Chapter of the Proposed Plan (on page 33), setting out the objectives and the policies, and the highlighted box beneath that table, is deleted.
- 10.3. I consider the policies in this Chapter (and Policy ES12) under each of the above headings. As with the other topic chapters, to make the Plan clearer and more usable, so that it complies with paragraphs 15 and 17 of the NPPF and the PPG, and thus with the basic conditions, I have redrafted each policy in accordance with the approach described at paragraphs 8.9 and 8.20 of this report.

Connections within the villages

- 10.4. Existing policy ES12 supports proposals that improve and extend the footpath network; it contains no bullet-point text under the heading. The reference to an improvement in traffic numbers presumably should be to a reduction in traffic levels. The heading to existing Policy GA2 (in coloured text) supports pedestrian and cycle routes, and substantially overlaps with policy ES12.
- 10.5. The bullet-point for existing Policy GA2 relates to connections to the green infrastructure network and access to public and community transport. This is significantly different from the heading. The second part of existing paragraph 3.3 and the second sentence of paragraph 3.6 both relate to this topic, but are not appropriate to form policies.

- copy, but are not appropriate to form part of the plan.
- 10.6. Existing Policy GA1 requires developer contributions (presumably to be secured by planning obligations) or CIL contributions from all developments towards the funding of improvements to the cycle and footpath network. However, regulation 122(2) of the Community Infrastructure Regulations 2010 provide that “a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development”. Contributions towards the funding of the footpath network (or indeed any of the other facilities referred to in the

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Proposed Plan) are therefore more likely to come forward through the mechanism of the CIL Regulations, and the relevant policies need to be adjusted to reflect that.

- 10.7. Subject to that point, these policies broadly comply with ADLP Policies GEN15 and GEN156, but need to be rationalised in order to assist developers know precisely what is required.
- 10.8. I recommend that Policies ES12, GA1 and GA2 and paragraphs 2.18 and 3.1 to 3.4.12 are redrafted as follows:

“6.1 Connections within the villages

Policy GA1.Connection to sustainable transport

New developments should integrate with the current green infrastructure network and provide access to public and community transport, to connect with the social, community and retail facilities of the villages.

6.1.1 Connections within and between the villages ... *[as remainder of existing paragraph 3.3]*

6.1.2 Where possible, signage will be improved to encourage a high level of the green infrastructure network. And improvements to public and community transport will be encouraged, particularly in view of the age profile of local residents and the need for traffic reduction.

Policy GA2. Footpath and cycle path network

Support will be given to proposals that improve and extend the existing footpath and cycle path network, allowing greater access to new housing, the village centres, green spaces and the open countryside. The loss of existing footpaths and cycle paths will be resisted.

6.1.3 There is much movement around the two villages and reasonable access to the surrounding countryside, but improving the network of footpaths and cycle paths would encourage walking and cycling. If this could be more safely achieved there would be health benefits as well as a reduction in traffic levels.

6.1.4 Opportunities to provide cycle hire at Barnham Station will be encouraged.

Policy GA3. Contributions to maintain and improve the network

Policy GA3. Contributions to maintain and improve the network

Funds raised from the Community Infrastructure Levy (CIL) will be put towards the costs of maintaining and improving the network of footpaths and cycle paths. Developer contributions towards those costs will be sought in appropriate cases.

6.1.5 Car parking and traffic issues blight the villages. Contributions from new developments will be used to fund improvements and new links into the existing network of footpaths and cycle paths."

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Parking

- 10.9. Existing policy GA3 deals with the important issue of parking. ADLP policy GEN12 provides that parking in excess of the standards in ADLP Appendix 2 will not be allowed. Any neighbourhood plan that requires parking in excess of those standards would therefore not comply with the basic conditions.
- 10.10. The second bullet point under existing Policy GA4 (parking on railway land) is also relevant to this topic.
- 10.11. I recommend that existing Policy GA3 and Policy GA4 and paragraphs 3.5 and 3.6 are redrafted as follows:

"6.2 Parking

Policy GA4.Parking and new development

Development proposals will be supported only if they includes the maximum level of off-street parking consistent with the current standards under the Local Plan. Developments that reduce the amount of off-street parking currently available will only be supported if they make enforceable provision for equivalent off-street parking nearby. Parking spaces provided in connection with such proposals will be required to be made available in perpetuity.

Policy GA5.Commuter parking

Proposals that increase the use of railway land to expand affordable commuter parking will be supported.

6.2.1 *[as existing paragraph 3.5]*

6.2.2 Policy EE5, providing for the retention of existing car parks, is also relevant.

Other policies

- 10.12. The first bullet-point of existing Policy GA4 and the first sentence of paragraph 3.6 relates to the promotion of business and tourism. I accordingly deal with these in Chapter 12 of this report (see paragraphs 12.11 and 12.12).

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11. New Chapter 7: Community, leisure and wellbeing

- 11.1. This Chapter of the Proposed Plan provides policies that relate to the following issues:
- Support for ageing population (existing Policy CLW1);
 - Medical facilities (existing CLW2);
 - Sport and leisure facilities (existing CLW3, CLW4);
 - Assets of community value (existing CLW5);
 - Open spaces (existing CLW6, CLW7);
 - Educational facilities (existing CLW8).
- 11.2. For the reasons set out in Chapter 8 of this report, I recommend that the table at the start of this Chapter of the Proposed Plan (on page 35), setting out the objectives and the policies, and the highlighted box beneath that table, is deleted.
- 11.3. I consider the policies in this Chapter under each of the headings listed above. As with the other topic chapters, to make the Plan clearer and more usable, so that it complies with paragraphs 15 and 17 of the NPPF and the PPG, and thus with the basic conditions, I have redrafted each policy in accordance with the approach described at paragraphs 8.9 and 8.20 of this report.

Support for ageing population

- 11.4. Existing Policy CLW1 and paragraph 4.1 complies with the basic conditions.
- 11.5. I recommend that a new heading, “7.1 Support for ageing population”, is inserted above Policy CLW1; and that paragraph 4.1 is renumbered 7.1.1.

Medical facilities

- 11.6. Existing Policy CLW2 (that is, the heading; there is no bullet-point text beneath the heading) complies with the basic conditions as it stands. But the justification for the policy, in paragraph 4.2 relates not just to support for new facilities but also the use of developer contributions towards their provision; that needs to be reflected in a reworded policy - see also paragraph 10.6 above.
- 11.7. I recommend that Policy CLW2 and paragraph 4.2 are redrafted as follows:

“7.2 Medical facilities

Policy CLW2: Support for new medical facilities

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Proposals for the provision of new medical facilities will be supported. Funds raised from the CIL will be put towards the costs of providing such facilities; and developer contributions towards those costs will be sought in appropriate cases.

7.2.1 [as per existing paragraph 4.2]”

Recreation and leisure facilities

- 11.8. The first sentence of existing Policy CLW3 relates to the protection of school playing fields and other open land, and overlaps with Policy CLW7; it is accordingly dealt with below. But the second sentence deals with a quite different point, the provision of new recreational buildings. The policy therefore needs to be reworded accordingly.
- 11.9. ADLP Policy AREA6 merely seeks to protect existing allotments, and to encourage further provision where required. Existing Policy CLW4 goes further in requiring provision in connection with the large housing allocation and all new developments of over 20 homes. There seems to be general agreement that there is a shortage of allotments in Barnham and Eastergate, and that allotments can be provided as part of the main housing allocation. However, it would not be appropriate to require allotments in all other developments, since allotments require a reasonably generous land allocation if they are to function efficiently. The policy therefore needs to be reworded appropriately.
- 11.10. I recommend that Policies CLW3 and CLW4 and paragraphs 4.3 and 4.4 are redrafted as follows:

“7.3 Recreation and leisure

Policy CLW3. Recreation facilities

The provision of recreational buildings will be supported provided that their design and scale are in keeping with the local character and that the impact on the residential amenity of surrounding residential properties is acceptable.

7.3.1 Surveys have shown how well valued the leisure facilities in and around Barnham and Eastergate are to residents and visitors.

Policy CLW4. Provision of allotments

Policy CLW4. Provision of allotments

The provision of new allotments, either in connection with the housing development promoted in accordance with policy H1 or elsewhere, will be supported.

7.3.2 [as existing paragraph 4.4]

Assets of community value

- 11.11. Existing Policy CLW5 relates to assets of community value. These are listed in Appendix D in the Proposed Plan, and also (in more or less identical

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terms) on page 75 in the Evidence Base section of the Plan. The wording of that Appendix significantly overlaps that of the policy.

- 11.12. The first paragraph of that Appendix states that “the Neighbourhood Plan proposes that the following buildings are assessed by the local planning authority for designation as Assets ...”. This looks like a policy; and indeed the third paragraph of the Appendix refers to “This Policy proposes that Assets ... are designated ...”. There is a lack of coherence here. The Parish Councils are of course entitled to put forward particular buildings for inclusion in the Register of Assets of Community Value, under the Assets of Community Value (England) Regulations 2012; and once they have been included it is appropriate that they should be protected from inappropriate development proposals, of the kind referred to at existing Policy CLW5. However, it is only their retention that can form the subject of a land use policy of the kind that can properly be included in a neighbourhood plan.
- 11.13. To ensure clarity, and thus compliance with the basic conditions, the policy and the Appendix need to be re-worded accordingly. Clearly if none of the properties listed are included in the Register, the policy will be redundant for the moment; but equally it would still apply if other properties were to be included in the future.
- 11.14. I recommend:

(a) that Appendix D (Assets of Community Value) should be renamed “Schedule A. Possible Assets of community Value”, and amended:

- (i) in the first paragraph, by the substitution for “Neighbourhood Plan proposes” of “Parish Councils are proposing”;
- (ii) by the omission of the second and third paragraphs;
- (iii) in the fourth paragraph, by the substitution for “in this policy”
- (iv) by the omission of the fifth paragraph (from “If designated” to “concern”);
- (v) in the sixth paragraph, by the omission of “in addition”;

(b) that Policy CLW5 and paragraph 4.5 are redrafted as follows:

(b) that Policy CLW5 and paragraph 4.5 are redrafted as follows:

"7.4 Assets of community value

Policy CLW5. Protection of assets of community value

Proposals that will enhance the viability and/or community value of any property that may be included in the register of Assets of Community Value will be supported. Proposals that results in the loss of such a property or in significant harm to its community value will be resisted, unless it can clearly be demonstrated the continuing operation of the property is no longer economically viable. Typically ... *[as remainder of existing Policy CLW5]*.

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7.4.1 The buildings in Barnham and Eastergate currently proposed for inclusion in the Register of Assets of Community Value are listed in Schedule 1. They are recognised as significant in the economic and social viability of the villages.

7.4.2 The loss ... *[as remainder of existing paragraph 4.5]*.

Open spaces

- 11.15. Existing Policies CLW6 and CLW7 both relate to open space - although it is not clear what is intended to be the distinction between "local green spaces" (CLW6) and "local open spaces" (CLW7), listed respectively at existing Appendix E and Appendix F to the Proposed Plan. The former policy explicitly protects local green spaces from development; the latter merely notes that local open spaces exist, but does not say what is to be done about them - save for the passing reference in Appendix F to the pressure on local schools.
- 11.16. It has been noted that part of existing CLW3 also deals with the loss of open land. And the bullet point under heading Policy CLW8 (although not the heading itself) also seeks to protect school playing fields, which are presumably the same as the playing fields listed under the first heading in Appendix F.
- 11.17. It is recognised that the NPPF urges local communities to designate land as Local Green Spaces through neighbourhood plans. It is therefore appropriate, and in accordance with the basic conditions, for there to be a policy to that end. But Paragraph 77 of the NPPF states that the Local Green Space designation should only be used "where the green area concerned is local in character and is not an extensive tract of land". I note the reasons given for the designation of each green area, but I consider that "land north of Barnham Road and east of Fontwell Avenue" (no 6) and "land south of Barnham Road" (no 7) both fail the test in the quoted provision of the NPPF.
- 11.18. The maps showing the open space designations currently appears on pages 92 and 93. This seems odd, as the map on p 93 appears to be merely a continuation southwards of the map on p 92; they could easily be conflated into a single map. The two maps are in any event not particularly clear,

into a single map. The two maps are in any event not particularly clear, and could with advantage be redrawn - either, as at present, showing both categories of open space on a single sheet, or with one map for each category. They should be located within or close to the schedules to which they relate.

- 11.19. The District Council has pointed out that the representation of Murrells Field on the map is incorrect, as it includes the terraced houses to the front of the land. The map in the copy of the Proposed Plan with which I have been supplied is too indistinct to be certain whether that point is well made; but it should be checked and redrawn if necessary.
- 11.20. There should then be a separate policy protecting local green spaces, playing fields, and other open spaces.

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- 11.21. Some of the references to development in paragraph 4.6 relate to design quality, and not to the protection of open space as such, and are therefore inappropriately located there.
- 11.22. There should also be no policy, as opposed to descriptive material, in the Appendices. And in Appendix F, the single line of text relating to Saxby Close Open Space should be clearly separated from the paragraph of text that follows, to make it clear that the latter applies to all five of the open spaces under heading 2.
- 11.23. To ensure clarity, and thus compliance with the basic conditions, these various policies and the two Appendices need to be re-worded. It may be that, on reflection, the Parish Councils will wish to simplify the different categories of open spaces, in which case the second policy can be further simplified.
- 11.24. I recommend:

(a) that Appendix E (Local Green Spaces) should be renamed Schedule B, and amended:

- (i) by the omission of "and need special protection" at the end of the first paragraph;
- (ii) by the omission of the entries relating to "land north of Barnham Road and east of Fontwell Avenue" (no 6) and "land south of Barnham Road" (no 7);
- (iii) by the inclusion of a clearly drawn map showing accurately the local green spaces.

(b) that Appendix F (Local Open Spaces) should be renamed Schedule C, and amended:

- (i) under the heading "1. The school playing fields", by the omission of the last sentence;
- (ii) under the heading "2. Nursery Close [etc]", by the separation of the single line of text relating to Saxby Close Open Space from the paragraph of text that follows, and by omission from that paragraph of "and should be designated as Local Open Spaces"; and

- should be designated as Local Open Spaces"; and
- (iii) by the inclusion of a clearly drawn map showing accurately the local open spaces.
- (c) that Policies CLW6 and CLW7 and paragraphs 4.6 and 4.7 are redrafted as follows:

"7.5 Open Spaces

Policy CLW6. Designation of local green spaces

The areas of open space listed in Schedule B, being of particular importance to the communities of Barnham and Eastergate, are designated as Local Green Spaces.

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7.5.1 [as existing paragraph 4.6, with the omission of "with few design principles and"]

Policy CLW7. Protection of open spaces

Proposals for development will not be supported where they lead to the loss of:

- any of the Local Green Spaces designated under Policy CLW6 or
- any of the school playing fields or other areas of open space listed in Schedule C.

Exceptions will only be made:

- where the benefits of development can be shown to outweigh any harm, and there are no reasonable alternative sites available; or
- in the case of development of school playing fields, where a school is being relocated to a suitable, larger site in the neighbourhood.

7.5.2 Our outdoor spaces are vital to maintaining a happy and healthy community. Surveys have shown how much they mean to residents and visitors.

7.5.3 [as existing paragraph 4.7, with the omission of "are children's playgrounds as well as places that" and "by residents"].

- (d) that a clear map (Map F. Open spaces) is included showing:

- the local green spaces, designated under Policy CLW6; and
- other open spaces subject to Policy CLW7.

Educational facilities

11.25. It has already been noted (at paragraph 8.6) that this policy is slightly muddled. The heading to existing Policy CLW8 encourages the provision of

muddled. The heading to existing Policy CLW8 encourages the provision of primary schools. The text beneath that heading relates to the protection of playing fields from development, already partially dealt with by Policy CLW7. And paragraph 4.8 relates to the use of developer contributions towards the provision of improved school facilities, and needs to be adjusted in accordance with paragraph 10.6 above.

- 11.26. To ensure clarity, and thus compliance with the basic conditions, this confusion needs to be resolved. There is no stated justification for the provision of educational facilities, but that can no doubt be provided.
- 11.27. I recommend that Policy CLW8 and paragraphs 4.8 are redrafted as follows:

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“7.6 Education

Policy CLW8. Provision and improvement of school facilities

Developments that lead to the provision or improvement of facilities for children to attend primary schools in Barnham and Eastergate will be supported. Funds raised from the CIL will be put towards the cost of such facilities.

7.6.1 *[justification to be supplied]*.

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12. New Chapter 8: Employment and enterprise

- 12.1. This Chapter of the Proposed Plan provides policies that relate to the following issues:
- Support for shops and businesses (existing Policies EE1 to EE4);
 - Car parks (existing EE5);
 - Support for recreation and tourism (existing EE6);
 - Broadband links (existing EE7).
- 12.2. The first bullet-point of existing Policy GA4 and the first sentence of paragraph 3.6 relates to the promotion of business and tourism. I accordingly deal with them in this Chapter.
- 12.3. **For the reasons set out in Chapter 8 of this report, I recommend that the table at the start of this Chapter of the Proposed Plan (on page 38), setting out the objectives and the policies, and the highlighted box beneath that table, is deleted.**
- 12.4. I consider the policies in this Chapter under each of the headings listed above. As with the other topic chapters, to make the Plan clearer and more usable, so that it complies with paragraphs 15 and 17 of the NPPF and thus with the basic conditions, I have redrafted each policy in accordance with the approach described at paragraphs 8.9 and 8.20 of this report.

Business and employment use

- 12.5. Existing Policies EE1 to EE3 and paragraphs 5.1 to 5.3 relate to support for business activity generally. The Basic Conditions statement suggests that all three are linked to ADLP Policy DEV27; but that only refers to retail development. On the other hand, there seem to be few if any policies in the ADLP that relate to non-residential development other than retail; and

the ADLP that relate to non-residential development other than retail; and section 1 of the NPPF makes it plain that the Government is committed to supporting economic growth. The NPPF also indicates that local planning authorities should plan proactively to meet the development needs of business; and these policies in the Proposed Plan are in line with that objective. I am therefore satisfied that in principle they are in accordance with the Basic Conditions.

- 12.6. Existing Policy EE3 is slightly confusing, in that Class B1 covers more than light industry, and the heading of the policy refers to offices; it would seem that the policy is probably intended to support all B1 uses and not just light industry; and the structure of the Use Classes Order means that it would be perverse to do otherwise. Nor is it clear whether B2 and B8 uses are always resisted, because they always cause problems (which is the implication of the bullet-point text), or whether they are allowable where they do not

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cause problems (as per paragraph 5.3). The latter seems to be the more logical interpretation, since no other reason is given for resisting such uses.

- 12.7. I recommend that Policies EE1 to EE3 and paragraphs 5.1 to 5.3 are redrafted as follows:

“8.1 Business and employment uses

Policy EE1. Support for business

[as existing Policy EE1]

8.1.1 *[as existing paragraph 5.1].*

Policy EE2. Retention of employment land

Proposals for the redevelopment or change of use of land or buildings in employment use to non-employment uses will not be supported, unless it can be shown that the existing use is no longer economically viable. Typically this would mean that the site has been marketed at a reasonable price for at least a year for that and any other suitable employment or service trade uses and no interest in acquisition has been expressed.

8.1.2 *[as existing paragraph 5.2]*

Policy EE3. Support for new commercial uses

Change of use to Class B1 uses (including light industry) and new development for such uses will be supported, where the impact on surrounding residential and community amenity is acceptable and other policy considerations are complied with. Change to Class B2 uses (general industry) or Class B8 (distribution and storage) will be generally be resisted.

8.1.3 Light industrial uses will be supported. However, general industrial ... *[as remainder of existing paragraph 5.3].”*

Retail uses

- 12.8. Existing Policy EE4 relates to retail premises, and needs to make clear that

12.8. Existing Policy EE4 relates to retail premises, and needs to make clear that the second and third bullet points are not alternative requirements. The retention of car parking is achieved not by this policy but by Policy EE5, so paragraph 5.4 needs to be adjusted accordingly.

12.9. I recommend that Policy EE4 and paragraph 4.8 are redrafted as follows:

“8.2 Retail uses

Policy EE4. Retention of retail frontages

Change of use at ground level from Class A1 uses (retail) to Class A2 uses (professional) or from Class A1 to Class A3, A4 or A5 (food and drink) will be supported, provided that:

- it can be demonstrated that it satisfies an identified community need and that its establishment would enhance the village centre’s “convenience and destination appeal” or

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demonstrate tangible community benefit in accordance with Local Plan policy; and

- a shop window display frontage in keeping with the character of the area is maintained.

8.2.1 *[as existing paragraph 5.4, with the omission of “and businesses and recognises the importance that easy parking makes to their success”].*

Parking and signage

12.10. The justification for retaining car parks - which is the subject of Policy EE5 - is stated in the table on page 38 to be to ensure the viability of business and tourism generally, not just shops; and paragraph 5.5 needs to be adapted to reflect that.

12.11. The first bullet-point of existing Policy GA4 and the first sentence of paragraph 3.6 also relates to the promotion of business and tourism, through the improvement of signage and publicity. That would be more appropriately dealt with by a new policy in this Chapter, save that whereas signage is a land-use matter, and thus suitable to be the subject of a planning policy, “publicity” generally is not.

12.12. I recommend that the first bullet point of Policy GA4, Policy EE5 and paragraph 5.5 are replaced with the following two policies:

“8.3 Parking and signage

Policy EE5. Retention of existing car parks

Proposals for the change of use of any existing car parks will not be supported.

8.3.1 *[as existing paragraph 5.5, with the addition of “, businesses and tourism” after “shops”].*

Policy EE6. Improving signage

Proposals for the improvement of signage for local facilities will be

Proposals for the improvement of signage for local facilities will be supported, provided that they enhance their surroundings.

8.3.2 Improving signage to promote the facilities available in Barnham and Eastergate will support local shops, businesses and tourism.”

Recreation and tourism

12.13. This policy seeks to support recreation and tourism. It largely duplicates ADLP policy DEV34, but that is not a reason for its exclusion. However, the last sentence of paragraph 5.6, whilst perfectly sensible, refers to matters that are not related to land use.

12.14. I recommend:

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- (a) that a new heading, “8.4 Recreation and tourism” is inserted above existing Policy EE6;**
- (b) that existing Policy EE6 is renumbered Policy EE7;**
- (c) that existing paragraph 5.6 is renumbered paragraph 8.4.1; and**
- (d) that the last sentence of that paragraph is omitted.**

Broadband links

12.15. Existing Policy EE7 Paragraph refers to matters that are not related to land use, and therefore does not comply with the Basic Conditions.

12.16. I recommend that existing Policy EE7 and paragraph 5.7 are omitted.

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13. New Chapter 9: Housing

- 13.1. This Chapter of the Proposed Plan provides policies that relate to the following issues:
- the allocation of land for housing development (existing Policy HDQ1, HDQ4);
 - the mix of housing types and occupiers (existing HDQ2, HDQ5);
 - the design of new housing development (existing HDQ3, HDQ7, HDQ8, HDQ9, HDQ10); and
 - the provision of new facilities associated with new housing (existing HDQ6).
- 13.2. The existing title for this Chapter of the Proposed Plan, *Housing and Design Quality*, is misleading in that it suggests that part of the chapter deals with housing, and part deals with the “design quality” (presumably in relation to all development proposals, including those for non-residential development. In fact, the list of topics above makes it plain that the whole Chapter is focussed exclusively on housing development.
- 13.3. I recommend that the Chapter is re-titled “Housing”.
- 13.4. The existing Chapter of the Proposed Plan on Environment and sustainability also contains some policies that relate specifically the design of to housing development (ES2, ES3(ii) and ES10(i)). I accordingly deal with them in this Chapter of my report.
- 13.5. For the reasons set out in Chapter 8, I recommend that the table at the start of this Chapter of the Proposed Plan (on page 41), setting out the objectives and the policies, and the highlighted box beneath that table, is deleted.

- 13.6. I consider the policies in this Chapter under each of the headings listed above. As with the other topic chapters, to make the Plan clearer and more usable, so that it complies with paragraphs 15 and 17 of the NPPF and thus with the basic conditions, I have redrafted each policy in accordance with the approach described at paragraphs 8.9 and 8.20 of this report.

The allocation of land for housing development

- 13.7. The crucial questions of how much housing is to be provided, and where it is to be located, are dealt with in existing Policies HDQ1 (allocated sites) and HDQ4 (windfall sites).
- 13.8. The ADLP is clearly out of date in relation to the quantity of housing to be provided, either in the District as a whole or within any particular part of it. However, that cannot of itself stop new development without further ado; and the NPPF makes it plain that planning authorities should identify

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annually a range of suitable sites to allow for five years' worth of housing, and allow for additional windfall development where appropriate.⁴¹ That process will be an ongoing one, usually carried out in association with the updating of the local plan.

- 13.9. The NPPF states that neighbourhood plans should not promote less development than set out in the local plan,⁴² but does not explicitly deal with the position that arises where there is merely a five-year land supply rather than a formal local plan allocation. However, the clear thrust of the policy approach of the NPPF, taken as a whole, is that a neighbourhood plan should be in accordance with the relevant allocation in the five-year supply - and should certainly not promote less development than in that allocation. A neighbourhood plan that fails to do so would thus not be in accordance with Government policy, and thus would not comply with the basic conditions.
- 13.10. In the present case, the most up-to-date allocation is contained in the draft *Local Plan (Summer 2013)*. Policy SP11 requires that strategic housing allocations are to be accommodated through
- sustainable urban extensions adjoining Littlehampton and Bognor Regis,
 - site-specific allocations at Barnham/Eastergate/Westergate and Angmering,
 - broad allocations at Westbank, and
 - parish allocations.

This was adopted by the Council at its meeting in April 2014.

- 13.11. The "site-specific allocation at Barnham / Eastergate / Westergate" relates to the allocation of a large area of land, broadly to the south of Barnham and Eastergate, straddling the main east-west railway line. The development is to take the form of a "well-designed development, that avoids a continuous urban form with existing communities", providing for at least 2,000 homes, together with a wide range of transport and other facilities, including in particular the upgrading of the Lidea West Water

least 2,000 homes, together with a wide range of transport and other facilities, including in particular the upgrading of the Lidsey Waste Water Treatment Works (WWTW).

- 13.12. As to the parish allocations, Table 12.2 in the emerging plan sets out the housing units for parishes, which are to be provided within neighbourhood plans; the figures are 100 units for Barnham and 100 units for Eastergate, in addition to the strategic allocations. The District Council has apparently accepted that any residential developments granted permission after 31 March 2013 can be counted against the allocations for the parishes; and the tables on page 41 of the Proposed Plan indicates the permission has been granted - either by the Council in response to an application or by the Secretary of State on appeal for 158 houses. That means that the net allocation for Barnham and Eastergate is 42 houses (that is, 200 less 158).

⁴¹ NPPF, paras 47, 48.

⁴² NPPF, para 184.

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- 13.13. It follows that the allocation of 60 units is not less development than provided for in the five-year allocation, as adjusted to take account of recent permissions. It therefore complies with the basic conditions. But the wording of Appendix A in the Proposed Plan is inappropriate, in that it appears to allocate for housing the site at 43/45/47 Barnham Road, for which planning permission has already been granted (ref EG/44/12).
- 13.14. But the Proposed Plan is highly misleading in that it appears to contain no reference to the much larger allocation of 2,000 homes in the emerging Local Plan. I accept that that allocation will no doubt be the subject of considerable discussion, both in the context of the emerging Local Plan itself and, if it emerges unscathed from that process, in the course of any planning application. It would therefore be appropriate for the neighbourhood plan not to simply allocate that land without further ado. On the other hand, the present approach of the Proposed Plan needs to be rectified.
- 13.15. As to the specific site allocation, that appears to be appropriate, and has not been challenged by anyone.
- 13.16. The schedule of outstanding permissions could be retained, for information.
- 13.17. Existing policy HDQ4, relating to windfall sites, is stated in the Basic Conditions Statement to be in accordance with ADLP Policy DEV18. That policy relates only to "affordable housing outside the built-up area", and therefore does not provide a justification for Policy HDQ4. However, the allocation of sites in emerging ADLP Policy SP11 is stated to be a minimum; and there is therefore no reason why a policy in a neighbourhood plan should not allow housing to be provided on windfall sites as well as specifically allocated site; and it is indeed very sensible that such sites should be developed.
- 13.18. I therefore recommend:
- (a) that the table at the bottom of page 41, the text above and below that table, Policy HDQ1 and paragraph 6.1 are omitted, and replaced with the following:

and replaced with the following:

"9.1 Provision of housing

Policy H1. Specific site allocation

Permission will be granted for up to 60 new homes in Eastergate on land identified on the Proposals Map, provided that the development meets the requirements of the other policies in the Local Plan.

9.1.1 The Parish Councils recognise the local need for housing, and will provide for new homes over and above the requirement in the emerging Arun Local Plan.

9.1.2 Policy SP11 and Table 12.2 in the emerging Arun District Council Local Plan require that the neighbourhood plan for Barnham and Eastergate should allocate land for a minimum of 200 housing units. Against this, permission has been granted for some 158 houses and flats since 31 March 2013. The

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resulting requirement is accordingly that the plan should allocate land for at least 42 housing units.

9.1.3 The site shown on the Proposals Map meets the other criteria in the Plan, and is suitable for at least 60 housing units, although this could be extended in due course to a total of 100 units including neighbouring land. The development is likely to include allotments, in accordance with Policy CLW4.

9.1.4 This allocation is in addition to:

- the permissions for residential development that have been granted and are still capable of implementation, listed in Schedule D; and
- any strategic allocation that may be made in the Local Plan for housing on the larger site to the south of Barnham and Eastergate.

Policy H2. Windfall sites

[as existing Policy HDQ4]

9.1.5 *[as existing paragraph 6.4, with the substitution of "development" for "sites" in the second sentence.]*

- (b) that Appendix B (Sites with planning approval or appeal pending) is re-named "Schedule D. Sites where planning permission has been or may be granted".

The mix of housing types and occupiers

13.19. The mix of housing types and occupiers is the subject of existing Policies HDQ2 and HDQ5.

13.20. ADLP Policy DEV18 is said to be the justification for Policy HDQ2, which relates to all affordable housing. However, as noted above, DEV18 relates only to housing outside the built-up areas. DEV17 relates to affordable

only to housing outside the built-up areas. DEV17 relates to affordable housing generally; but does not require occupiers to have a local connection. In fact the ADLP general housing policy requires that all new housing developments over a certain size, which would include the main allocation in this Plan, to contain affordable housing. The policy as worded implies that only local people could occupy any affordable housing, which might result in such housing remaining empty if there were to be no local demand.

- 13.21. The District Council has raised a concern as to the lack of any mention within the Proposed Plan of delivery of affordable housing. However, both Policy DEV17 in the existing ADLP and Policy SP12 in the emerging replacement Local Plan (Policy SP12) contain provision for affordable housing, which will apply in Barnham and Eastergate just as elsewhere. These two policies are different from each other; and it may be imagined that the requirement may well change again if (as is probable) the Local Plan is updated during the lifetime of the Neighbourhood Plan. The requirement for affordable housing will thus in practice be determined by

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the relevant local plan in force at the time of any application; and the absence of a requirement in the Neighbourhood Plan is therefore not a problem.

- 13.22. I recommend that Policy HDQ2 and paragraph 6.2 are omitted.
- 13.23. ADLP Policy DEV21 is said to be the justification for existing Policy HDQ5, but it relates to permissions for housing for older people, apparently in addition to any other housing permitted, whereas HDQ5 appears to be aimed at all housing permissions.
- 13.24. There is a more general policy lurking within the wording of the second half of existing Appendix A, relating to the housing mix depending on the location of the site. That seems to be a sensible policy, but it would apply to all new housing, and should be made the subject of an explicit policy. That would also pick up the point that is the subject of existing policy HDQ5.
- 13.25. I recommend
- (a) that Policy HDQ5 and paragraph 6.5 are redrafted as follows:

“9.2 Mix of housing types and occupiers

Policy H3. Housing mix

The type of should to be provided in any residential development should reflect the location of the site:

- where development is on a site within 400 metres walking distance from a village centre, at least 50% of the housing units to be provided should have one or two bedrooms;
- in other cases, no more than 25% of the housing units to be provided should have one or two bedrooms.

9.2.1 Sites that are close to a village centre will be particularly suited to meeting the needs of smaller households

particularly suited to meeting the needs of smaller households of older or younger people without access to private transport, including older people wishing to downsize, and the mix of different housing types should be determined accordingly.

(b) that Appendix A is omitted.

The design of new housing development

- 13.26. Existing Policies HDQ3, HDQ7, HDQ8, HDQ9 and HDQ10 all relate to the design of new housing development, as do existing Policy ES2, the second bullet point of existing Policy ES3, and the first bullet point of existing Policy ES10.
- 13.27. The heading of existing Policy HDQ3 relates only to “the allocated site” - presumably the site allocated under Policy HDQ1 - but the bullet point below the heading relates to all new housing. The latter seems the more appropriate. Policy HDQ7 is appropriate, although the second sentence is

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superfluous. But Policies HDQ3 and HDQ7 essentially say the same thing, and could be combined. Existing Policy HDQ8 is slightly imprecise. Existing Policy HDQ10 duplicates proposed policies ES5 and ES6 (see paragraph 9.19 of this report), and can therefore be omitted.

- 13.28. The second bullet point of existing policy ES3 refers specifically to the Design Council publication *Building for Life* 12. It is likely that during the 15-year life of the Plan, there will be refinements to that standards; and that other standards may become available that offer equivalent tests by which to measure the overall quality of proposed housing development. The policy as phrased is thus overly restrictive.
- 13.29. The wording of existing Policy ES2 and the first bullet-point of existing Policy ES10 are both phrased in very definite terms, for which there is limited support within ADLP Policies GEN9, GEN21 and GEN24 - said to be the justification for those policies in the Basic Conditions Statement. The Code for Sustainable Homes is not yet applicable to all new houses. These policies would therefore be more appropriate if rephrased to make it plain that they are aspirations rather than rigid requirements.

13.30. I recommend that

- existing Policies ES2, the second bullet point of existing Policy ES3, and the first bullet point of existing Policy ES10,
- existing Policies HDQ3, HDQ7, HDQ8, HDQ9 and HDQ10,
- existing paragraphs 2.5 and 2.15, and
- existing paragraphs 6.3, 6.7, 6.8, 6.9 and 6.10

are replaced by the following:

“9.3 Design of new housing development

Policy H4. Integration of new housing into surroundings

Proposals for residential development should be of high quality, and designed so that the new housing integrates into its surroundings

Proposals for residential development should be of high quality, and designed so that the new housing integrates into its surroundings and is well connected to the village. Proposals for three or more housing units should secure 12 out of 12 greens in response to the twelve questions in *Building for Life 12*, or meet an equivalent standard of excellence.

9.3.1 It is important that any new housing does not feel like an add-on to the new villages but is fully integrated in to the community and its facilities. This will be helped by good design that reflects the character of the surrounding area.

9.3.2 The standards set out in the Design Council publication *Building for Life 12* reflect the policies in this Plan, and developers that can be shown through thorough assessment to meet those or equivalent standards can be promoted as being of the highest quality in terms of design principles.

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Policy H5. Outdoor space

Proposals for new housing development should include good quality outdoor amenity space - either private gardens or a shared amenity area.

9.3.3 *[as existing paragraph 6.8]*

Policy H6. Attention to detail

In particular, the design of new housing should give full consideration to the following items:

- *[as bullet points in existing Policy HDQ9].*

9.3.4 *[as paragraph 6.9]*

Policy H7. Drainage for new housing

Wherever possible, new housing development should be designed so as to have a predicted water discharge of no more than 80 litres of water per person per day, in line with the requirements of Level 5 of the Code for Sustainable Homes (CfSH).

9.3.5 *[as per existing paragraph 2.5]*

Policy H7. Drainage for new housing

Wherever possible, new housing development (other than in the case of a conversion of a historic building) should be designed so as to have a minimum energy efficiency standard in line with the requirements of Level 5 of the Code for Sustainable Homes (CfSH).

9.3.6 *[as per paragraph 2.15, but with the substitution of "and Fuel Poverty Strategy 2014-2019" for "Strategy 2009-2013"]*.

The provision of new facilities

13.31 Existing Policy HDQ6, as phrased, is merely refers to the requirements of

- 13.31. Existing Policy HDQ6, as phrased, is merely refers to the requirements of other policies. It would be clearer if it were replaced simply by a cross-reference to the relevant Chapter of the Plan.
- 13.32. I recommend that Existing Policy HDQ6 and paragraph 6.6 are replaced by the following:

9.4 Provision of new facilities

6.4.1 The provision of community facilities in connection with new residential development (including on windfall sites) is the subject of Chapter 7.

The proposals map

- 13.33. The principal purpose of the Proposal Map (Map B) appears to be to show the housing site allocated in existing policy HDQ1. It also indicates various items shown by asterisks and numbered 1 to 14. It is not clear what the latter are, in the absence of a key, although they might be listed buildings.

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- 13.34. I recommend that a new Proposals Map is included, in place of the existing Map B on page 45, showing at least:
- the listed buildings, conservation areas, and area of special character subject to policy ES7;
 - open spaces subject to policy CLW7; and
 - the housing site allocated under Policy H1.

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14. Summary and overall recommendation

- 14.1. The Proposed Plan as it was submitted to me is, unfortunately, not altogether clearly laid out, and would not form a practical framework within which decisions on planning applications could be made with a high degree of predictability and efficiency. And the policies are in a number of cases not clear and unambiguous.
- 14.2. As submitted, therefore, the Proposed Plan does not meet the basic conditions.
- 14.3. However, those problems are capable of remediation, and I have set out recommended modifications to achieve that, and to ensure that the Plan does meet the basic conditions. I regret that this will require a significant amount of redrafting to be carried out; and there may be other consequential amendments necessary as a result of that redrafting.
- 14.4. Subject to the modifications proposed in this report having been made, I recommend that the plan is submitted to a referendum.

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Annexe A. The recommended structure of the Neighbourhood Plan

Recommended structure	<i>Corresponding passage in Proposed Plan as existing</i>	Reference in this report
Foreword	<i>Ch 1 (p 3)</i>	
1. Introduction		Chapter 5
1. The Neighbourhood Plan	<i>Paras 2.1-2.4</i>	
2. How the Neighbourhood Plan fits into the planning system	<i>Paras 2.5-2.7</i>	
3. The scope of the Neighbourhood Plan	<i>Paras 2.8-2.10</i>	
4. The evidence base	<i>Para 2.11</i>	
5. Monitoring and review	<i>Para 4.7</i>	
2. Barnham and Eastergate today		Chapter 6
1. Introduction	<i>Para 1.1</i>	

1. Introduction	<i>Para 1.1</i>	
2. History	<i>Para 1.2</i>	
3. General character	<i>Paras 1.3, 1.4, 1.5, 2.1.1</i>	
4. Flooding	<i>Paras 2.2.1-2.2.3</i>	
5. Environment and habitats	<i>Para 2.3.1</i>	
6. Getting around	<i>Paras 2.4, 2.4.1-2.4.10</i>	
7. Community, leisure and wellbeing	<i>Paras 2.5.1-2.5.13</i>	
8. Employment and enterprise	<i>Paras 2.6.1-2.6.9</i>	
9. Housing	<i>Paras 2.7.1-2.7.3</i>	
3. The principles underlying the Plan		Chapter 7
1. Introduction	<i>Para 3.1, and the two paras above it</i>	

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2. The principles	<i>Para 3.2</i>	
4. The policies		Chapter 8
1. Introduction	<i>Paras 2.1.1, 2.1.2</i>	
2. The presumption in favour of sustainable development	<i>Para 2.2.1</i>	
5. Environment and sustainability		Chapter 9
1. Flooding and drainage	<i>Policy ES1, paras 2.1-2.4</i>	
2. The location of new development	<i>Policies ES4, ES5, paras 2.7, 2.8</i>	
3. The design of new development	<i>Policies ES3(i), ES6, ES7, paras 2.6, 2.9, 2.10</i>	
4. The protection of existing important features	<i>Policies ES8, ES9, paras 2.11, 2.12</i>	
5. Energy efficiency	<i>Policies ES10(ii),(iii), ES11, paras 2.13, 2.14, 2.16, 2.17</i>	
6. Getting around		Chapter 9
1. Connections within the villages	<i>Policies ES12, GA1, GA2, paras 2.18, 3.1-3.4.12</i>	
2. Parking	<i>Policies GA3, GA4, paras 3.5, 3.6</i>	

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Annexe B. Minor modifications for the purpose of correcting errors

Note: for simplicity, references are to existing paragraph and Policy numbers

Page	Modification
4	Para 2.5 After "Framework", insert "(NPPF)"
5	Para 2.8 For "Heritage", substitute "heritage"
12	Para 2.2.2 For "Bognor", substitute "Bognor Regis".
12	Para 2.3.1 Remove "(ref.)" at three places
14	Para 2.5.3 Delete words in brackets
14	Para 2.5.5 Delete words in brackets
15	Para 2.5.9 For "The", substitute "There is a lack of"
17	Para 2.7.1 For "core Conservation", substitute "conservation"
35	Policy CLW1 Insert "Proposals for" at the start; and for "is in keeping" substitute "are in keeping"

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